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REPORT OF THE COMMITTEE ON CRIME PREVENTION AND CONTROL ON ITS ELEVENTH SESSION*

(5-16 February 1990)

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* The present document is a mimeographed version of the report of the Committee on Crime Prevention and Control on its eleventh session. The final report will be issued as Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31).

SUMMARY

The Committee on Crime Prevention and Control has the function of preparing programmes of international co-operation in crime prevention and criminal justice is the preparatory body for the quinquennial United Nations congresses on the prevention of crime and the treatment of offenders. At its eleventh session, the Committee recommended for adoption by the Economic and Social Council seven draft resolutions and one draft decision, approved 22 draft decisions to be transmitted through the Council to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Havana from 27 August to 7 September 1990, and adopted three resolutions on matters relating to the Comnmittee's work.

The draft resolutions recommended for adoption by the Economic and Social Council deal with (a) the implementation of United Nations standards and norms in crime prevention and criminal justice, (b) the continuation of preparations for the Eighth United Nations Congress, (c) education, training and public awareness in the field of crime prevention, (d) victims of crime and abuse of power, (e) prison education, (f) United Nations surveys of criminal justice and (g) technical co-operation.

With reference to the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice, the Committee unanimously adopted a report entitled "The need for the creation of an effective international crime and justice programme", based on the work of a subcommittee appointed by the Committee on Crime Prevention and Control, pursuant to its resolution 10/1, to provide an overview of the magnitude of the problem of crime, to assess the most efficient means of stimulating practical international action and to make recommendations in that regard. The Committee decided to recommend that the Eighth Congress consider the report (E/1990/31/Add.1) and approve a draft resolution for adoption by the General Assembly. By that draft resolution, the Assembly would request the Secretary-General, in consultation with the Chairman of the Committee, to arrange for an expert working group to be established, which, depending on the availability of extrabudgetary funds, would further elaborate the proposed international crime and justice programme referred to in the above-mentioned report of the Committee, as well as the mechanisms required for implementing the proposed programme; the Assembly would invite Member States to convene a summit or ministerial meeting to consider the proposed programme and any convention or other international instrument required to develop its content and structure; the Assembly would request the Secretary-General to take immediate action, pending the convening of such a meeting, to consider the conversion of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs into a new, major unit of the Secretariat with an appropriate programme.

As the preparatory body of the Eighth Congress, the Committee recommended that the Council transmit to the Congress draft resolutions on (a) international co-operation for crime prevention and criminal justice in the context of development, (b) the functioning and programme of work of the United Nations in crime prevention and criminal justice, (c) a draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, (d) the role of criminal law in the protection of nature and the environment, (e) United Nations standard minimum rules for non-custodial measures (the Tokyo rules), (f) prevention of urban crime, (g) management of criminal

justice and the development of sentencing policies, (h) basic principles for the treatment of prisoners, (i) computerization of criminal justice, (j) prevention and control of organized crime, (k) terrorist criminal activities, (l) a model treaty on mutual assistance in criminal matters, (m) a model treaty on extradition, (n) a model treaty on the transfer of proceedings in criminal matters, (o) United Nations guidelines for the prevention of juvenile delinquency, (p) United Nations rules for the protection of juveniles deprived of their liberty, (q) basic principles on the use of force and firearms by law enforcement officials, (r) basic principles on the role of lawyers, (s) guidelines on the role of prosecutors and (t) a model treaty on the transfer of supervision of offenders conditionally sentenced or conditionally released.

In addition, the Committee adopted a resolution recommending that the Eighth Congress consider the establishment, under United Nations auspices, of a world foundation on crime control and assistance to victims.

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Chapter I

MATTERS CALLING FOR ACTION BY THE ECONOMIC AND SOCIAL COUNCIL OR BROUGHT TO ITS ATTENTION

A. Draft resolutions

1. The Committee on Crime Prevention and Control recommends to the Economic and Social Council the adoption of the following draft resolutions:

DRAFT RESOLUTION I

United Nations surveys of criminal justice*

The Economic and Social Council,

Convinced of the important role of criminal justice statistics in the informed management of all criminal justice operations and of the need for comprehensive, accurate and up-to-date criminal justice data bases at the national and international levels,

Recognizing the need to continue the work on United Nations criminal justice statistics undertaken by means of United Nations periodical surveys of crime trends, operations of criminal justice systems and crime prevention strategies and to make those surveys as uncomplicated as possible, and recognizing the major contribution that the analysis of such surveys can make to the formulation and development of criminal justice programmes,

Recognizing also that the ongoing work on computerization of crime and justice matters by Member States and the United Nations will enhance the potential of Member States to respond to such surveys,

Bearing in mind Economic and Social Council resolution 1984/48 of 25 May 1984, and resolution 9 adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Secretary-General was requested to allocate existing resources to allow for the enhancement of efforts to establish and develop national statistical data bases on crime and the operations of the criminal justice systems and to strengthen the work of the United Nations regional institutes in that field, 1/

Believing that future surveys have to be simplified and undertaken more frequently and that the replies to them can be made more accurate,

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* For the discussion, see chap. II.

1/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

1. Recommends that the Fourth United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies should be simplified, that it should cover the period 1987-1990 and that subsequent surveys should be carried out at two-year and ultimately one-year intervals;

2. Calls upon Member States to endeavour to provide more complete responses to the Fourth United Nations Survey;

3. Invites the United Nations regional and interregional institutes, in co-operation with the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs and the Statistical Office of the United Nations Secretariat, to review the preparation of the survey questionnaire and the analysis and publication of the results;

4. Invites Member States to provide financial assistance, through the United Nations Trust Fund for Social Defence or in other ways, to countries in the creation and maintenance of criminal justice data bases, at the national and international levels, and to provide the necessary expertise or appropriate international analysis and policy recommendations;

5. Requests the Secretary-General, in his progress report on United Nations activities in crime prevention and criminal justice, to be submitted to the Committee on Crime Prevention and Control at its twelfth session, to make proposals for improving the number and quality of responses to the Fourth United Nations Survey, and for publishing the results of such surveys in the regular reports on the state of crime and justice in the world;

6. Requests the Secretary-General to convene a meeting, during the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to consider the revision of the survey questionnaire, and invites Governments to include in their national delegations persons suited to that task;

7. Further requests the Secretary-General, in particular through the Crime Prevention and Criminal Justice Branch and the Statistical Office and in co-operation with the Department of Technical Co-operation for Development of the United Nations Secretariat, to provide assistance to the regional institutes so that training programmes may be organized for criminal justice statisticians and others involved in the preparation of the replies to the surveys with a view to increasing the rate of response;

8. Decides that the Committee on Crime Prevention and Control should review the results of the periodical surveys for their inclusion in regular United Nations technical publications on the state of crime and justice in the world.

DRAFT RESOLUTION II

Technical co-operation in the field of crime prevention and criminal justice*

The Economic and Social Council,

Considering that one of the purposes of the United Nations, as proclaimed in the Charter, is to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion,

Convinced that, within the framework of development, crime prevention and criminal justice should be guided by respect for the principles proclaimed in the Caracas Declaration 2/ and the Milan Plan of Action, 3/ the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 4/ and other pertinent instruments adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Convinced also that concerted efforts in all areas will lead to the practical application of these principles, with full respect for human rights and fundamental liberties,

Considering that the deteriorating socio-economic situation in some countries demands the aid of the international community, in all areas, within the framework of freely concluded bilateral or multilateral conventions,

Emphasizing the usefulness of regional and interregional co-operation in crime prevention and criminal justice, as fostered by the United Nations regional and interregional institutes and other such organizations that work closely with the United Nations,

Noting with satisfaction the statutory establishment of the United Nations African Regional Institute for the Prevention of Crime and the Treatment of Offenders and reaffirming the vital role the Institute is called upon to play in assisting the African region in the formulation and implementation of appropriate crime prevention and criminal justice policies and programmes,

Acknowledging the economic constraints on the Member States of the African region to meet their financial obligations to the Institute to enable it to start operations and to implement its mandate,

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* For the discussion, see chap. II below.

2/ General Assembly resolution 35/171, annex.

3/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

4/ Ibid., sect. B.

Aware of the conditions attached to funding by the United Nations Development Programme, which would limit the staffing, administrative and operational capabilities of the Institute,

Convinced that the viability of the Institute requires adequate funding on a predictable, assured and continuous basis,

1. *Recommends* that the international community, working through bilateral or multilateral arrangements, should provide Member States, at their request, with the necessary assistance, in order to contribute to the establishment of the infrastructure required for crime prevention and criminal justice;

2. *Invites* Member States to increase their co-operation in the field of crime prevention and criminal justice by expanding their operational activities in this area;

3. *Urges* the United Nations Development Programme to provide adequate funding for the United Nations African Regional Institute for the Prevention of Crime and the Treatment of Offenders on a predictable, assured and continuous basis, for a minimum of six years, subject to biennial evaluation of performance of the Institute by its Board and the Committee on Crime Prevention and Control;

4. *Urges* Governments to provide supplementary financial and technical support so as to enable the United Nations to help developing countries in their efforts to identify, analyse, follow up and evaluate crime trends, to formulate crime prevention and control strategies that are effective and in harmony with their national development plans, priorities and objectives, and to implement criminal justice policies with a view to ensuring respect for United Nations principles and standards in this area;

5. *Invites* Member States to include crime prevention and criminal justice policies in their planning process, particularly when formulating national development plans, so as to reduce the human, social and economic costs associated with criminality and delinquency, and to allocate sufficient funds to the activities of the criminal justice system, paying appropriate attention to research and training;

6. *Urges* the World Bank, the United Nations Development Programme, the Department of Technical Co-operation for Development of the United Nations Secretariat and other financial organizations to continue to provide financial support and assistance within their programme of technical co-operation activities;

7. *Requests* the Secretary-General to inform the Committee on Crime Prevention and Control at its twelfth session of the measures taken by the Member States to achieve the objectives of the present resolution.

DRAFT RESOLUTION III

Prison education*

The Economic and Social Council,

Affirming the right of everyone to education, as enshrined in article 26 of the Universal Declaration of Human Rights 5/ and in articles 13 to 15 of the International Covenant on Economic, Social and Cultural Rights, 6/

Recalling rule 77 of the Standard Minimum Rules for the Treatment of Prisoners, 7/ which states, *inter alia*, that provision shall be made for the further education of all prisoners capable of profiting thereby, that the education of illiterates and young prisoners shall be compulsory and that the education of prisoners shall be integrated with the educational system of the country so far as practicable,

Recalling also rule 22.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 8/ which states that professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases, and rule 26, which stresses the role of education and vocational training for all juveniles in custody,

Bearing in mind the long-standing concern of the United Nations about the humanization of criminal justice and the protection of human rights, and the importance of education in the development of the individual and the community,

Bearing in mind also that human dignity is an inherent, inviolable quality of every human being and a pre-condition for education aiming at the development of the whole person,

Bearing in mind further that 1990, the year in which the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders is to be held, is also International Literacy Year, 9/ the objectives of which are directly relevant to the individual needs of prisoners,

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* For the discussion, see chap. III.

5/ General Assembly resolution 217 A (III).

6/ General Assembly resolution 2200 A (XXI), annex.

7/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

8/ General Assembly resolution 40/33, annex.

9/ See General Assembly resolution 42/104.

Noting with appreciation the significant efforts made by the United Nations, in preparing for the Eighth Congress, to give more recognition to prison education, 10/

1. Recommends that Member States, appropriate institutions, educational counselling services and other organizations should promote prison education, inter alia, by:

(a) Providing penal institutions with educators and accompanying services and raising the educational level of prison personnel;

(b) Developing professional selection procedures and staff training and supplying the necessary resources and equipment;

(c) Encouraging the provision and expansion of educational programmes for offenders in and outside prisons;

(d) Developing education suitable to the needs and abilities of prisoners and in conformity with the demands of society;

2. Also recommends that Member States should:

(a) Provide various types of education that would contribute significantly to crime prevention, resocialization of prisoners and reduction of recidivism, such as literacy education, vocational training, continuing education for updating knowledge, higher education and other programmes that promote the human development of prisoners;

(b) Consider the increased use of alternatives to imprisonment and measures for the social resettlement of prisoners with a view to facilitating their education and reintegration into society;

3. Further recommends that Member States, in developing educational policies, should take into account the following principles:

(a) Education in prison should aim at developing the whole person, bearing in mind the prisoner's social, economic and cultural background;

(b) All prisoners should have access to education, including literacy programmes, basic education, vocational training, creative, religious and cultural activities, physical education and sports, social education, higher education and library facilities;

(c) Every effort should be made to encourage prisoners to participate actively in all aspects of education;

(d) All those involved in prison administration and management should facilitate and support education as much as possible;

10/ See A/CONF.144/IPM.4 and 5 and A/CONF.144/RPM.1, 3 and Corr.1, 4 and Corr.1 and 5 and Corr.1.

(e) Education should be an essential element in the prison régime; disincentives to prisoners who participate in approved formal educational programmes should be avoided;

(f) Vocational education should aim at the greater development of the individual and be sensitive to trends in the labour market;

(g) Creative and cultural activities should be given a significant role since they have a special potential for enabling prisoners to develop and express themselves;

(h) Wherever possible, prisoners should be allowed to participate in education outside the prison;

(i) Where education has to take place within the prison, the outside community should be involved as fully as possible;

(j) The necessary funds, equipment and teaching staff should be made available to enable prisoners to receive appropriate education;

4. Urges the United Nations Educational, Scientific and Cultural Organization and its International Bureau of Education, in co-operation with the regional commissions, the regional and interregional institutes for crime prevention and criminal justice, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council, to become actively involved in this process;

5. Requests the Secretary-General, subject to the availability of extrabudgetary funds:

(a) To develop a set of guidelines and a manual on prison education that would provide the basis necessary for the further development of prison education and would facilitate the exchange of expertise and experience on this aspect of penitentiary practice among Member States;

(b) To convene an international expert meeting on prison education, with a view to formulating action-oriented strategies in this area, with the co-operation of the regional and interregional institutes for crime prevention and criminal justice, the specialized agencies, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council;

6. Also requests the Secretary-General to inform the Committee on Crime Prevention and Control, at its twelfth session, on the results of his endeavours in this area;

7. Invites the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the Committee on Crime Prevention and Control, at its twelfth session, to consider the question of prison education.

DRAFT RESOLUTION IV

Implementation of United Nations standards and norms in crime prevention and criminal justice*

The Economic and Social Council,

Bearing in mind the Milan Plan of Action and the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 11/

Also bearing in mind the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 12/ the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, 13/ the Code of Conduct for Law Enforcement Officials, 14/ the Basic Principles on the Independence of the Judiciary, 15/ the Standard Minimum Rules for the Treatment of Prisoners, 7/ the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 8/ the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, 16/ and the Model Agreement on the Transfer of Foreign Prisoners, 17/

Further bearing in mind the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners, 18/ the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary 19/ and the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, 20/

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* For the discussion, see chap. III.

11/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sects. A and B).

12/ General Assembly resolution 40/34, annex.

13/ Economic and Social Council resolution 1984/50, annex.

14/ General Assembly resolution 34/169, annex.

15/ Seventh United Nations Congress ...., chap. I, sect. D.2.

16/ Economic and Social Council resolution 1989/65, annex.

17/ Seventh United Nations Congress ...., chap. I, sect. D.1.

18/ Economic and Social Council resolution 1984/47.

19/ Economic and Social Council resolution 1989/60, annex.

20/ Economic and Social Council resolution 1989/61, annex.

Noting the difficulties that countries have found in supplying complete and accurate replies to the questionnaires designed to measure the extent of compliance with those standards and procedures,

Acknowledging the important role the United Nations has played, and continues to play, in the development of those standards and procedures through its quinquennial congresses on the prevention of crime and the treatment of offenders and the Committee on Crime Prevention and Control,

Recognizing the valuable contribution of the United Nations to those endeavours through its human rights activities, based on the Universal Declaration of Human Rights, 5/ the International Covenant on Economic, Social and Cultural Rights, 6/ the International Covenant on Civil and Political Rights and its Optional Protocol, 6/ its Second Optional Protocol Aiming at the Abolition of the Death Penalty, 21/ the Convention on the Rights of the Child, 22/ the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 23/ and other relevant instruments,

Recalling General Assembly resolutions 40/146 of 13 December 1985, 41/149 of 4 December 1986, 42/143 of 7 December 1987 and 44/162 of 16 December 1989 on human rights in the administration of justice,

Recalling also Economic and Social Council resolutions 1987/53 of 28 May 1987 and 1989/68 of 24 May 1989 on the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice,

Recalling further Economic and Social Council resolution 1989/63 of 24 May 1989 on the implementation of United Nations standards and norms in crime prevention and criminal justice,

Welcoming the steps taken by the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs and the Centre for Human Rights to ensure even closer co-operation, particularly in the preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Commending in particular the fact that focal points have been further developed within the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs and the Centre for Human Rights to monitor the human rights aspects of the administration of justice in various programmes and to provide, as appropriate, advice on co-ordination and other relevant issues,

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21/ General Assembly resolution 44/128, annex.

22/ General Assembly resolution 44/25, annex.

23/ General Assembly resolution 43/173, annex.

Convinced of the need for further co-operation and concerted action, as reaffirmed by the Commission on Human Rights in resolutions 1989/24 of 6 March 1989 on human rights in the administration of justice, 1989/32 of 6 March 1989 on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers and 1989/64 of 8 March 1989 on summary or arbitrary executions, [24]

1. *Calls upon* all Member States:

(a) To adopt and implement at the national level the United Nations standards in crime prevention and criminal justice, in accordance with their constitutional process and domestic practice;

(b) To ensure that the standards are widely publicized in at least the main or official language or languages of the country;

(c) To guarantee that justice personnel, and members of the executive and the legislature and the public in general, are informed in the most appropriate manner of the content and importance of the standards and that the standards are made available to them;

(d) To design ways and means of enhancing the observance of the standards, including the elaboration of realistic and effective implementation procedures, the use of the standards in the curricula of universities and other institutions, the organization of seminars and training courses, as well as of other meetings at the professional and non-professional levels, the more active involvement of the community and the increased support of the mass media;

(e) To promote studies on measures for the effective implementation of the standards, with emphasis on new developments in that area;

(f) To provide the needed support to the United Nations regional and interregional institutes for crime prevention and criminal justice, the Arab Security Studies and Training Centre, as well as other entities in the United Nations system concerned with the implementation of the standards;

(g) To increase, as far as possible, the level of support for technical co-operation and advisory services, either directly or through international funding agencies, so as to promote the provision of technical co-operation to Governments requesting it;

2. *Urges* the Committee on Crime Prevention and Control to continue reviewing the standards and following-up their implementation, to make recommendations on their future application and to identify existing obstacles to, or shortcomings in, their implementation, *inter alia*, through contacts with the Governments of the countries concerned, with a view to suggesting appropriate remedies;

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[24] *Official Records of the Economic and Social Council, 1989, Supplement No. 2* (E/1989/20), chap. II, sect. A.

3. *Authorizes* the Chairman of the Committee to designate members of the Committee, with due regard to appropriate regional representation, to assist the Committee in the periods between its sessions in the implementation of specific standards, in close co-operation with the United Nations regional and interregional institutes for crime prevention and criminal justice, the Arab Security Studies and Training Centre, and the other entities and organizations concerned, without financial implications for the United Nations, and to inform the Committee and its pre-sessional working groups of the results of those endeavours;

4. *Invites* Member States to allocate extrabudgetary funds to enable the designated members of the Committee to draw on their best available professional and academic sources of information, to consult with non-governmental organizations and to hold *ad hoc* meetings as required;

5. *Requests* the Secretary-General to provide the designated members of the Committee with all the assistance necessary for the successful completion of their tasks;

6. *Calls upon* the Committee on Crime Prevention and Control, at its twelfth session, to make specific recommendations to the Economic and Social Council on further action required for the effective implementation of existing standards, on the basis of the proposals made by the pre-sessional working group established in accordance with Council resolution 1989/63, paragraph 6, taking into account, in particular, the following issues:

(a) Measures to increase the level of support for programmes of technical co-operation and advisory services in crime prevention and criminal justice to permit more effective implementation, including special projects designed and carried out at the country level and more active involvement of potential funding agencies;

(b) The role of the United Nations, in particular the Committee on Crime Prevention and Control, in promoting the implementation of existing standards, including modalities for strengthening existing review procedures, and more active intersessional involvement of Committee members and other experts;

(c) The relationship between the effectiveness of implementation and the work-load of the Committee and the Secretariat;

(d) The growing burden imposed on many States by the expansion of reporting obligations, and the need for technical assistance;

(e) The problem of inadequate reporting or excessive delays;

(f) The question of additional or alternative sources of information;

(g) The capacity of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, for reasons of inadequate staffing and other financial constraints, to provide the Committee with the administrative and technical support required;

7. *Authorizes* the Committee on Crime Prevention and Control to continue the practice of convening a pre-sessional working group for two days before each session;

8. Requests the Secretary-General to provide the Committee on Crime Prevention and Control and its pre-sessional working group with all the assistance necessary for the successful completion of their tasks;

9. Requests the Secretary-General to ensure, through the Department of Public Information of the United Nations Secretariat, the widest possible dissemination of United Nations standards in crime prevention and criminal justice and the periodic reports on their implementation, in as many languages as possible, and to make them available to all States and to the intergovernmental and non-governmental organizations concerned;

10. Emphasizes the significant role of the United Nations regional and interregional institutes and the regional commissions, the Arab Security Studies and Training Centre, the regional and interregional advisers in crime prevention and criminal justice, the specialized agencies and other organizations of the United Nations system, intergovernmental organizations and non-governmental organizations, including professional associations concerned with promoting United Nations standards in crime prevention and criminal justice, and invites them to continue and intensify their active involvement;

11. Reaffirms the importance of developing diversified funding strategies, including recourse to voluntary and mixed multilateral and bilateral contributions for specific projects, and of strengthening the involvement of United Nations development agencies, including the United Nations Development Programme and the World Bank;

12. Invites the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the following issues:

(a) The means by which to accord adequate priority to the implementation of existing standards;

(b) The possibility of consolidating reporting arrangements.

DRAFT RESOLUTION V

Victims of crime and abuse of power*

The Economic and Social Council,

Bearing in mind General Assembly resolution 40/34 of 29 November 1985, in which the Assembly adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, approved by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling that in the same resolution the General Assembly called upon Member States and other entities to take the necessary steps to give effect to the provisions contained in the Declaration and to curtail victimization,

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* For the discussion, see chap. III.

Taking into account Economic and Social Council resolution 1989/57 of 24 May 1989 of the implementation of the Declaration,

Bearing in mind the recommendations of the preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 25/

Having considered the Guide for Practitioners on the Basic Principles of Justice for Victims of Crime and Abuse of Power, 26/

Recognizing the need for continuing efforts to give effect to the Declaration, and to adapt it to meet the full range of needs and the circumstances of different countries,

Recognizing, in particular, the need to look beyond national measures in some instances, especially where victims of transnational crimes and abuse of power are concerned,

1. *Takes note* of the report of the Secretary-General on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; 27/

2. *Requests* the Secretary-General together with all the entities of the United Nations system and other appropriate organizations, to undertake and co-ordinate the necessary action, with a humanitarian objective, to prevent and curtail severe victimization where national means of recourse are insufficient, and:

(a) To monitor the situation;

(b) To develop and institute means of conflict resolution and mediation;

(c) To promote access to justice and redress for victims;

(d) To assist in providing material, medical and psycho-social assistance to victims and/or their families;

3. *Invites* the United Nations regional and interregional institutes to provide mechanisms for the development and international co-ordination of services for victims, and to promote the collection, collation and exchange of information and ideas in order to improve standards for the treatment of victims;

4. *Requests* the Secretary-General to continue to devote attention to policy and research on the situation of victims of crime and abuse of power and to the effective implementation of General Assembly resolution 40/34;

25/ See A/CONF.144/IPM.1-5 and A/CONF.144/RPM.1, 2, 3 and Corr.1, 4 and 5.

26/ See E/AC.57/1990/CRP.1.

27/ E/AC.57/1990/3.

5. *Recommends* that Member States and the United Nations regional and interregional institutes should take the necessary steps to provide professional and other persons dealing with victims with suitable training in issues concerning victims, taking into account the model training curricula developed for this purpose; 28/

6. *Invites* the United Nations funding agencies, especially the United Nations Development Programme and the Department of Technical Co-operation for Development of the United Nations Secretariat, to support technical co-operation programmes for the establishment of services for victims;

7. *Requests* the Secretary-General to further develop international means of recourse and redress for victims where national channels may be insufficient and to report to the Committee on Crime Prevention and Control, at its twelfth session, on the development of such means;

8. *Requests* the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to take into account, in his study of compensation to victims of gross violations of human rights, the relevant work and recommendations of the Committee on Crime Prevention and Control;

9. *Invites* the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to recommend wide distribution of the Guide for Practitioners on the Basic Principles of Justice for Victims of Crime and Abuse of Power 26/ and the Measures for Implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, submitted by a committee of experts that met at the International Institute of Higher Studies in Criminal Sciences, Syracuse, Italy, in May 1986. 29/

DRAFT RESOLUTION VI

*Continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders**

The Economic and Social Council,

Recalling General Assembly resolutions 415 (V) of 1 December 1950, 32/60 of 8 December 1977, 41/107 of 4 December 1986, 42/59 of 30 November 1987, 43/99 of 8 December 1988 and 44/72 of 8 December 1989,

Recalling also Economic and Social Council resolutions 1987/49 of 28 May 1987 and 1989/69 of 24 May 1989,

Bearing in mind that the General Assembly and the Economic and Social Council have reaffirmed in numerous resolutions the importance of the United Nations congresses on the prevention of crime and the treatment of offenders, as global events providing a forum for the exchange of expertise and experience in priority areas, and for the development of policy options and international co-operation in the field of crime,

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* For the discussion, see chap. IV.

28/ See E/AC.57/1990/NGO/3.

29/ See E/AC.57/1988/NGO/1.

Having considered the report of the Secretary-General on the continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 30/

1. Takes note of the reports of the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in 1989; 31/

2. Approves the organization of work for the Eighth Congress, as proposed by the Secretary-General in his report; 32/

3. Commends the Secretary-General of the Eighth Congress for the important work done in preparing for the Congress, in spite of the limited resources available;

4. Expresses its appreciation to the Committee on Crime Prevention and Control which, as the preparatory body for the Congress, has provided overall guidance;

5. Endorses the recommendations contained in the reports of the regional preparatory meetings for the Eighth Congress, as reviewed by the Committee on Crime Prevention and Control, and recommends that the Congress approve them;

6. Approves the documentation for the Eighth Congress, which was reviewed by the Committee on Crime Prevention and Control at its tenth and eleventh sessions;

7. Notes with satisfaction the preparations for the two workshops to be held during the Eighth Congress, one on alternatives to imprisonment and the other on computerization of the administration of criminal justice; 33/

8. Urges all Governments to attend the Congress at the highest possible level;

9. Invites Governments to finalize their national preparations for the Eighth Congress, including the submission of national papers, and to consider including members of the Committee on Crime Prevention and Control and national correspondents in their delegations to the Congress;

10. Welcomes the organization of ancillary meetings of professional groups during the Congress; 34/

30/ E/AC.57/1990/5 and Add.1-5.

31/ A/CONF.144/RPM.1-5.

32/ E/AC.57/1990/5.

33/ Ibid., sect. G.

34/ Ibid., sect. L.

11. Urges the regional commissions, the regional and interregional institutes for crime prevention and the treatment of offenders, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned, non-governmental organizations in consultative status with the Economic and Social Council, professional organizations and experts to attend the Eighth Congress;

12. Decides to transmit to the Eighth Congress the draft resolutions recommended by the Committee on Crime Prevention and Control at its eleventh session. 35/

DRAFT RESOLUTION VII

Education, training and public awareness in the field of crime prevention*

The Economic and Social Council,

Recalling the Milan Plan of Action, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Secretary-General was requested to review, in consultation with the Committee on Crime Prevention and Control, the functioning and programme of work of the United Nations regional and interregional institutes for crime prevention and criminal justice, in order to establish priorities and to ensure the continuing relevance and responsiveness of the United Nations to emerging needs, 36/

Convinced that continuous review and establishment of these priorities should be, first of all, related to the ongoing training of criminal justice staff, sensitizing them to contemporary priorities and providing relevant in-service instruction,

Convinced also that, in order to be fully effective, standard-setting activities should include measures for their practical application for professionals in the field,

Recognizing the need for priority to be accorded to more effective crime prevention,

Reaffirming the leadership role of the United Nations in the field of crime prevention and criminal justice,

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* For the discussion, see chap. V.

35/ Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. I, sect. C.

36/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A, para. 5 (j).

1. Recommends the establishment of a comprehensive programme of work so that the United Nations may deal in a practical and operational way, in the context of its policy, standard-setting and clearing-house functions and central co-ordination role, with the contemporary problems of the international community in the field of crime prevention and criminal justice; the programme should include:

(a) Design of programmes for curricula development and preparation of training material and manuals;

(b) Promotion of collaborative academic work and publications;

(c) Provision of technical advisory services to Member States and organizations, at their request;

(d) Development of data bases on different aspects of education, training and public awareness;

(e) Production of audio-visual material and other training aids;

(f) Promotion of international co-operation in respect of training and educational programmes, including the provision of scholarships, fellowships and study tours;

(g) Close collaboration with research centres and academic institutions, as well as with the private sector.

2. Requests the Secretary-General to take the necessary steps to put these recommendations into effect.

B. Draft decision

2. The Committee on Crime Prevention and Control also recommends to the Economic and Social Council the adoption of the following draft decision:

Report of the Committee on Crime Prevention and Control on its eleventh session and provisional agenda and documentation for the twelfth session of the Committee

The Economic and Social Council decides:

(a) To take note of the report of the Committee on Crime Prevention and Control on its eleventh session;

(b) To endorse the Committee's request, contained in its resolution 11/3, 37/ that the Secretary-General transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, for consideration under item 3

37/ Official records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. I, sect. D.

(topic I) of its provisional agenda, the report of the Committee on Crime Prevention and Control entitled "The need for the creation of an effective international crime and justice programme"; [38]

(c) To approve the provisional agenda and documentation for the twelfth session of the Committee, set out below.

PROVISIONAL AGENDA AND DOCUMENTATION FOR THE TWELFTH SESSION OF THE COMMITTEE ON CRIME PREVENTION AND CONTROL

1. Election of officers.

2. Adoption of the agenda and other organizational matters.

3. Programming and other matters:

   (a) Progress report of the Secretary-General on United Nations activities in crime prevention and criminal justice;

   (b) Proposed amendments and revisions to the medium-term plan for the period 1992-1997.

   Documentation

   Report of the Secretary-General on United Nations activities in crime prevention and criminal justice

   Report of the Secretary-General on the progress of activities of the United Nations Interregional Crime and Justice Research Institute and the United Nations regional institutes for the prevention of crime and the treatment of offenders

   Note by the Secretary-General on proposed amendments and revisions to the medium-term plan for the period 1992-1997

4. Crime prevention and criminal justice standards and norms.

   Documentation

   Report of the Secretary-General on the implementation of the Milan Plan of Action and of the conclusions and recommendations of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

   Report of the Secretary-General on the implementation of the Standard Minimum Rules for the Treatment of Prisoners, with special reference to the status of prisoners and to efforts being made to ensure their human rights, including education and work, and to mechanisms which have been developed to that end

   Report of the Secretary-General on capital punishment

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[38] E/1990/31/Add.1.

Report of the Secretary-General on the implementation of the Basic Principles on the Independence of the Judiciary

Progress report of the Secretary-General on the preparation of guidelines and a manual on prison education (draft resolution III)

5. Collaborative action against the most serious forms of crime of international dimensions.

Documentation

Report of the Secretary-General on ways of strengthening international co-operation in combating organized crime and other forms of transnational criminality, including improved methods for international co-operation in the tracing, seizure, freezing, forfeiture and confiscation of illicitly acquired assets (Economic and Social Council resolution 1989/70, paragraph 3, and General Assembly resolution 44/72)

Note by the Secretary-General on proposals for a new instrument on international co-operation in criminal matters (E/1990/31/Add.1, paras. 66-69)

6. Criminal justice administration.

Documentation

Report of the Secretary-General on the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies and on progress of work on the Fourth Survey (Economic and Social Council resolution 1984/48, paragraph 4, and draft resolution I)

Report of the Secretary-General on recommendations for the computerization of criminal justice administration (Committee resolution 11/103)

7. Juvenile justice.

Documentation

Report of the Secretary-General on progress in the implementation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Economic and Social Council resolution 1989/66)

8. Functioning and programme of work of the United Nations in crime prevention and criminal justice.

Documentation

Report of the Secretary-General on the follow-up of the recommendations of the Committee on Crime Prevention and Control contained in document E/1990/31/Add.1 (Committee decision 11/122)

9. Implementation of the conclusions and recommendations of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Documentation

Report of the Secretary-General on the implementation of the conclusions and recommendations of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

10. Preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Documentation

Report by the Secretary-General on preparations for the Ninth Congress (General Assembly resolution 415 (V))

11. Provisional agenda for the thirteenth session of the Committee.

Documentation

Note by the Secretariat on the draft provisional agenda and documentation for the thirteenth session of the Committee

12. Adoption of the report of the Committee.

C. Decisions of the Committee calling for action by the Council

3. The following decisions, adopted by the Committee, call for action by the Council:

Decision 11/101. Nomination of members of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute*

At its 11th meeting, on 16 February 1990, the Committee of the Board of Trustees took note of the note by the Secretary-General on the nomination of members of the United Nations Interregional Crime and Justice Research Institute (E/AC.57/1990/7) and decided to select, for endorsement by the Economic and Social Council, the following candidates for membership in the Board: Tolani Asuni (Nigeria), Pierre-Henri Bolle (Switzerland), Dusan Cotic (Yugoslavia), Régis de Gouttes (France), Moustafa El-Augi (Lebanon), José A. Rios Alves da Cruz (Brazil) and Shusil Swarup Varma (India).

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* For the discussion, see chap. II.

Decision 11/102. Prevention of urban crime*

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 3 (topic I) of the provisional agenda:

"Prevention of urban crime

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Recalling* the Milan Plan of Action, 39/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"*Recalling* the final declaration of the European and North American Conference on Urban Safety and Crime Prevention, held in Montreal,

"*Recalling also* the catalogue of crime prevention measures prepared by the Helsinki Institute in compliance with Economic and Social Council resolution 1989/69 of 24 May 1989,

"*Noting* that all States are confronted by the problem of crime, particularly urban crime,

"*Convinced* that, if the desire is to reduce crime, a response based solely on the police and criminal justice system is inadequate, and that it is essential to supplement this response by an active prevention policy,

"*Considering* that it is at the local level, particularly at the urban level, that any prevention policy must primarily be carried out,

"*Emphasizing* that prevention is the concern of all, and that in particular:

"(a) It is the task of Governments to develop national prevention programmes;

"(b) Prevention must bring together those with responsibility for housing, social services, leisure activities, schools, the police and the justice system in order to deal with the conditions that generate crime;

"(c) Elected officials at all levels must employ the authority of their office and assume their responsibilities in combating urban crime;

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* For the discussion, see chap. IV.

39/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. 1, sect. A.

"(d) The community must be brought into this effort to ensure greater tolerance, greater social justice and greater respect for the rights of all,

"Further emphasizing that political leaders and Governments must promote greater solidarity among members of the community and that public authorities at all levels must support locally initiated prevention efforts,

"Considering that the fear of crime is a problem for all citizens, particularly women, the elderly and the disabled, while noting, however, that, in many instances, this fear is out of proportion to the true level of insecurity,

"Mindful that the factors conducive to crime include:

"(a) Poverty, unemployment, the lack of decent housing at reasonable cost and unsuitable education systems;

"(b) The increasing number of citizens who have no prospect of social integration, coupled with a worsening of social inequalities;

"(c) Loosening of social and family ties, accompanied by parental upbringing that is frequently made more difficult by living conditions;

"(d) The difficult conditions under which people emigrate to towns or other countries;

"(e) The destruction of original cultural identities, together with racism and discrimination, which may lead to disadvantages in the social, health and employment spheres;

"(f) Changes in the urban environment that promote crime by creating residential areas deprived of any neighbourhood facilities;

"(g) The difficulties for individuals in modern society to become properly integrated in their communities, families or schools and to identify with a culture;

"(h) Drug addiction, whose spread is promoted by the factors referred to above;

"(i) The increase in organized criminal activities, particularly drug trafficking and the receiving of stolen goods, the success of which require assistance from within the community;

"Considering that these problems involve responsibilities at all levels (international, national, regional, local and individual) and are affected by various factors (historical, political, economic, cultural, psychological and moral),

"Believing that an effective policy to prevent crime and reduce insecurity can only succeed through consistent and simultaneous action in all of these areas and at all of these levels, "Convinced of the need for co-operation to develop working practices based on partnership, at local and national levels, enabling all those responsible to analyse the difficulties encountered and formulate coherent and useful responses,

"Convinced also that police officers, judges, social workers, doctors and teachers and all concerned professionals must be given multidisciplinary training,

"1. Recommends that Member States take the necessary steps in the following areas:

"(a) Childhood:

"(i) By developing a policy in respect of very young children, which would include:

"a. Pre-natal and post-natal care and nutritional assistance for mothers and children;

"b. Suitable arrangements to provide nursery facilities and education for young children, as well as orientation programmes directly addressed to them;

"c. A policy of support for single-parent families;

"(b) Youth:

"(i) By developing the civic qualities of young people through their active involvement in community life and appropriate instruction regarding rights and duties;

"(ii) By associating young people with the crime-prevention policies pursued, particularly those relating to family life, health, leisure activities, training and employment;

"(iii) By providing young people with a good education and the possibility of acquiring the qualifications necessary to enter the working world and become professionally established;

"(iv) By encouraging enterprises to offer suitable jobs to those who have failed at school or suffer from a handicap;

"(v) By making a particular effort to restore the links between the generations;

"(c) The family:

"(i) By bringing about the complete integration, through educational programmes and assistance arrangements and through the criminalization of acts of violence, of strategies to control family violence and aggression of all kinds;

"(ii) Especially by combating the portrayal of such acts of violence in the media;

"(d) Housing and urban development:

"(i) By ensuring that housing agencies facilitate access to a range of useful services for a satisfactory life and enable tenants to become involved in the administration, provision and planning of these services;

"(ii) By incorporating safety considerations in urban planning and rehabilitation programmes;

"(e) Drug addiction prevention:

"(i) By developing, as a means of combating drug addiction, coherent prevention and education strategies, together with enforcement measures and arrangements for the care of drug addicts;

"(ii) By organizing, in schools at all levels, information programmes on drug-related problems;

"(iii) By instructing all those involved in social life in the problems of drug addiction, encouraging them, in particular, to be ready to listen to drug users;

"(f) Police:

"(i) By ensuring that one of the essential tasks of the police is to prevent crime and that, in order to carry out this task, it must develop prevention initiatives that involve citizens and community organizations;

"(ii) By encouraging the police to work more closely with citizens and by stepping up their co-operation with other local officials to reduce the sense of insecurity;

"(g) Victims:

"(i) By seeing to it that citizens are properly received by the police and justice officials, that they are informed of the follow-up action taken on their complaints, and that they are able to benefit from concrete judicial responses and are entitled to compensation;

"(ii) By putting into place machinery to aid victims that is accessible to every victim easily, quickly and free of charge;

"(iii) By developing mediation and conciliation mechanisms to prevent conflicts, reduce their effects or prevent their aggravation, while at the same time ensuring that no pressure is placed on the victims;

"(h) Prevention of recidivism through criminal justice:

"(i) By focusing particular attention on young offenders and on their social resettlement, in particular by facilitating their access to all forms of education, social assistance, training, health, employment placement services and housing;

"(ii) By seeking effective criminal-law responses through a diversification of sanctions to avoid imprisonment wherever possible;

"(iii) By making a particular effort, in the event of imprisonment, to avoid the excessively severe marginalization of the offender and the rupture of his or her personal or cultural ties, and by making available greater health, educational, cultural, sporting and leisure facilities in prisons, through co-operative arrangements with local partners;

"(iv) By facilitating, through improved access to all the various public services, the resettlement of prisoners upon their release from confinement;

"(i) Communication:

"(i) By informing citizens of the prevention programmes available both locally and nationally, and of their results;

"2. Draws the attention of the Member States to the following measures, which refer more specifically to the national level:

"(a) To encourage the efforts undertaken by cities through national policies that ensure regular and timely financing and permit ongoing adjustment;

"(b) To combat poverty and unemployment;

"(c) To incorporate, in national crime prevention policies, programmes aimed specifically at children and the young;

"(d) To ensure the co-ordination of prevention efforts among the various public agencies, as well as among the enterprises of the public and private sectors;

"(e) To give consideration to the growth of the private sector in the implementation of programmes to combat criminality;

"(f) To develop research and disseminate its results, establishing data banks on effective crime-control techniques and providing technical assistance to local officials;

"3. Invites Member States to increase their co-operation in the field of crime prevention with the aid of the United Nations Secretariat, regional and interregional institutions and non-governmental organizations, specifically:

"(a) By strengthening technical and scientific co-operation between States for the purpose of developing:

"(i) Their own crime-control policies;

"(ii) International co-operation activities;

"(iii) Co-operation with developing countries;

"(b) By encouraging exchanges between cities implementing prevention programmes;

"4. *Invites* the United Nations Secretariat to develop its initiating and co-ordination role, specifically:

"(a) By encouraging and co-ordinating the work of the regional and interregional institutes with a view to organizing more meetings and exchanges and to stepping up research and training;

"(b) By devising tools for the evaluation of public policies designed to combat crime;

"(c) By developing an international data bank that will keep all the local officials of different countries informed of pilot programmes to combat crime;

"5. *Requests* the Secretary-General to promote the objectives of the present resolution, specifically by ensuring it the widest possible dissemination, and to report to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the implementation of the present resolution by Member States."

Decision 11/103. *Computerization of criminal justice**

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 4 (topic II) of its provisional agenda:

"*Computerization of criminal justice*

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Recalling* General Assembly resolution 44/72 of 8 December 1989, in which the question of computerization of criminal justice was addressed,

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* For the discussion, see chap. IV.

"*Recalling also* resolution 9 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders 40/ on the development of crime and criminal justice information and statistical systems,

"*Recalling* Economic and Social Council resolution 1986/12 of 21 May 1986,

"*Bearing in mind* the recommendations on computerization of criminal justice administration proposed by the interregional preparatory meeting for the eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures, which emanated from the European Seminar on the Computerization of Criminal Justice Information: Realities, Methods, Perspectives and Effects, held at Popowo, Poland, from 18 to 22 May 1987,

"*Aware* that crime poses a serious problem to the personal security of individuals and to the enjoyment of their human rights, thereby adversely affecting the quality of life and harming the development process,

"*Aware also* that inefficiencies, inequalities or failures in the administration of criminal justice may themselves infringe on the rights and personal security of individuals,

"*Recognizing* that the computerization of criminal justice administration is an important mechanism for assistance in the efficient and humane management of criminal justice and for the production of statistical information that would benefit national Governments and the international community by providing data on crime trends and the operation of criminal justice systems,

"*Recognizing also* that the growth of crime nationally and internationally calls for enhanced international co-operation,

"*Noting* that the workshop and seminar on the computerization of criminal justice administration held at the Eighth Congress offered a suitable opportunity to exchange experience and establish viable policy options on this issue,

"*Conscious* that promotion of the computerization of criminal justice administration among Member States requires the enhancement of technical co-operation activities,

"*Emphasizing* the common problems faced by all Member States in the administration and computerization of criminal justice, and that both developing and developed countries may, through an enhanced capacity for an exchange of information on an international level, benefit from such international co-operation in the process of computerization,

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40/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

"Mindful that technical co-operation requires extensive expertise and resources and new logistical arrangements for the speedy delivery of services relating to the computerization of criminal justice administration,

"1. Calls upon the Secretary-General, to the extent that the activities referred to in the present resolution cannot be undertaken within existing resources and with available expertise, to prepare proposals for submission to potential donors in the governmental, intergovernmental and private sectors, in possible consortium, to provide such funding and expertise; such proposals should include pilot projects to demonstrate the value and viability of such activities, and serve as a basis for ensuring long-term resource support from diverse sources;

"2. Requests the Secretary-General, in co-operation with the network of regional and interregional institutes, to strengthen the Global Crime and Criminal Justice Information Network by:

"(a) Developing and distributing appropriate publications, reports and newsletters;

"(b) Organizing regional and interregional meetings, seminars and workshops on a continuing basis;

"(c) Maintaining an up-to-date roster of individuals and organizations to form the basis of an international technical co-operation infrastructure;

"(d) Enhancing communication between Member States by utilizing an electronic information network;

"3. Requests the Secretary-General, in co-operation with the network of regional and interregional institutes, to establish a technical co-operation programme for the systematization and computerization of criminal justice in order to offer training, assess needs, formulate and execute specific projects, and to report on the results achieved to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

"4. Further requests the Secretary-General to establish an international group of experts, which would be supported by the Department of Technical Co-operation for Development, would report regularly to the Secretary-General, and would have interregional representation and responsibility for:

"(a) Reviewing and assessing national experiences in the computerization of criminal justice;

"(b) Overseeing the establishment of the technical co-operation programme;

"(c) Monitoring the activities of the technical co-operation programme;

"(d) Informing Member States of the potential availability of funds and services from various donors in the governmental, intergovernmental and private sectors;

"(e) Informing such donors of the needs of Member States for assistance;

"(f) Consulting with relevant experts in the private sector in the field of criminal justice;

"5. Requests that adequate information on the experience of Member States with systematization and computerization should be included and the necessary facilities for the exchange of general substantive information between Member States should be provided in the Global Crime and Criminal Justice Information Network;

"6. Urges Member States, intergovernmental and non-governmental organizations, specialized agencies and other bodies, including in particular the United Nations Development Programme and the World Bank, and interested entities in the private sector with a technical co-operation programme, to consider giving high priority to criminal justice systematization and computerization projects in such programmes;

"7. Further urges Member States to assist the Secretary-General in the funding of the Global Crime and Criminal Justice Information Network, the technical co-operation programme and the work of the international group of experts."

Decision 11/104. International co-operation for crime prevention and criminal justice in the context of development*

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the recommendations on international co-operation for crime prevention and criminal justice in the context of development (E/AC.57/1990/5/Add.1, draft resolution) decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 3 (topic I) of its provisional agenda:

"International co-operation for crime prevention and criminal justice in the context of development

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Reaffirming the purposes and principles of the United Nations and the commitment of all States to respect the obligations assumed by them, in accordance with the Charter of the United Nations,

"Convinced that crime prevention and criminal justice in the context of development should be oriented towards the observance of the principles contained in the Caracas Declaration, 41/ the Milan Plan of Action, 42/ the

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* For the discussion, see chap. IV.

41/ General Assembly resolution 35/171, annex.

42/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order 43/ and other relevant resolutions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

"Recalling General Assembly resolution 43/99 of 8 December 1988, in which the Assembly stressed the need for Member States to continue to make concerted and systematic efforts to strengthen international co-operation in crime prevention and criminal justice as identified in the Milan Plan of Action and to facilitate the adoption by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders of viable and constructive action-oriented strategies against crime,

"Recalling also Economic and Social Council resolution 1989/68 of 24 May 1989, in which the Council reaffirmed its conviction of the importance of the programme of the United Nations in the field of crime prevention and criminal justice and the necessity of strengthening it in order to make it fully responsive to the needs and expectations of Member States,

"Adopts the recommendations contained in the annex to the present resolution and submits them to the General Assembly at its forty-fifth session for consideration.

"Annex

"RECOMMENDATIONS ON INTERNATIONAL CO-OPERATION FOR CRIME PREVENTION AND CRIMINAL JUSTICE IN THE CONTEXT OF DEVELOPMENT

"A. Crime prevention and criminal justice in the context of development

"1. Governments should reaffirm their commitment to respect the existing international treaties and their adherence to principles expressed in the Charter of the United Nations and in other relevant international instruments. Crime can also be prevented by ensuring that those principles are not sacrificed.

"2. Member States should intensify the struggle against international crime by respecting and promoting the rule of law and legality in international relations and, for that purpose, they should complete and further develop international criminal law, fully implement the obligations following from international treaties and instruments in this field (*pacta sunt servanda*), and examine their national legislation in order to ensure that it meets the needs of international criminal law.

"3. Governments should accord priority attention to the promulgation and implementation of appropriate laws and regulations to control and combat transnational crime and illegal international transactions, especially by the

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43/ *Ibid.*, sect. B.

provision of proper collaborative schemes and trained personnel. Also, national laws should be reviewed in order to ensure a more effective and adequate response to the new forms of criminal activity, not only through the application of criminal penalties, but also through civil or administrative measures.

"4. The national, regional and international aspects of growing pollution and the exploitation and destruction of the environment should be recognized and controlled as a matter of urgency, in view of its increasing and alarming devastation, deriving from various sources. Besides measures of administrative law and liability under civil law, the role of criminal law as an instrument that can help to achieve such control should constantly be reviewed. The desirability of elaborating guiding principles for the prevention of ecological crime, including the role of criminal law, should be considered.

"5. In view of the fact that advanced technology and specialized technical knowledge are employed in criminal activities pursued in international trade and commerce, including computer fraud, by the misuse of banking facilities and the manipulation of tax laws and customs regulations, law enforcement and criminal justice officials should be properly trained and provided with adequate legal and technical means to be able to detect and investigate such offences. The co-ordination and co-operation of other relevant agencies at the national level should be ensured and their capacities further improved. The development and strengthening of direct arrangements of international co-operation between the various agencies of national criminal justice systems should also be pursued.

"6. Since even legitimate enterprises, organizations and associations may sometimes be involved in transnational criminal activities affecting national economies, Governments should adopt measures for the control of such activities. They should also collect information from various sources so as to have a solid base for the detection and punishment of enterprises, organizations and associations, their officials, or both, if they are involved in such criminal activities, with a view also to preventing similar conduct in the future.

"7. Note should be taken of the fact that many countries lack adequate laws to deal with the emerging manifestations of transnational crime, and that the adoption and implementation of appropriate instruments and measures to prevent this type of criminality are urgently needed. In this regard, the exchange of information on existing laws and regulations should be encouraged in order to facilitate the dissemination and adoption of appropriate measures.

"8. Because the corrupt activities of public officials can destroy the potential effectiveness of all types of governmental programmes, hinder development, and victimize individuals and groups, it is of crucial importance that all nations should: (a) review the adequacy of their criminal laws, including procedural legislation, in order to respond to all forms of corruption and related actions designed to assist or to facilitate corrupt activities, and should have recourse to sanctions that will ensure an adequate deterrence; (b) devise administrative and regulatory mechanisms for the prevention of corrupt practices or the abuse of power; (c) adopt procedures for the detection, investigation and conviction of corrupt officials; (d) create legal provisions for the forfeiture of funds and property from corrupt practices; and (e) adopt economic sanctions against enterprises involved in corruption. The Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs should co-ordinate the elaboration of materials to assist countries in these efforts, including the development of a manual to combat corruption, and should provide specialized training to judges and prosecutors that would qualify them to deal with the technical aspects of corruption, as well as with the experiences derived from special tribunals handling such matters.

"9. Noting the alarming threat posed by illicit trafficking in narcotic drugs and psychotropic substances, which is among the worst crimes that humanity is facing, and the action carried out by United Nations drug control units and bodies in this field, and concerned that, despite all the efforts undertaken at the national, regional and international levels, this phenomenon persists unabated, it is important that efforts to combat this type of criminality should be given a central place in all crime prevention and criminal justice plans and programmes. The work of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs in this area should be strengthened. Special assistance should be extended to developing countries for the implementation of drug abuse control programmes and the elaboration of collaborative prevention and control strategies.

"10. The process of developing comprehensive model codes, especially at the regional and subregional levels, to combat crimes of transnational and international dimensions, should be encouraged. Also, efforts should be made to harmonize national criminal laws, so as to make them fully responsive to the realities and ramifications of such crimes. Practical arrangements, such as extradition, mutual assistance in criminal justice and the sharing and exchange of expertise and information, should be pursued. Adequate attention should be given to effective enforcement mechanisms in order to minimize the consequences of transborder crimes, including their effect on countries not directly involved.

"11. Appropriate educational policies should be developed for making the populations of Member States more sensitive to the problem through formal educational systems and general public information programmes, with a view to promoting awareness of the ways and means by which criminal victimization can be avoided, as well as acquainting the public at large with the objectives and processes of the criminal justice system.

"12. Recognizing the need for specific preventive measures related to such types of criminality as burglary, violent theft and street crime, an inventory of preventive measures should be prepared by the United Nations on the basis of an in-depth assessment and evaluation of their effectiveness in various cultural, social, economic and political contexts.

"13. With respect to the victims of crime and abuse of power, a guide containing an inventory of comprehensive measures for education on the prevention of victimization, and on the protection of, and assistance and compensation to, victims should be prepared. This guide should be applied in accordance with the legal, socio-cultural and economic circumstances of each nation, taking into account the important role of non-governmental organizations in this sphere.

"14. In view of its crucial function in crime prevention, the criminal justice system should be developed on the basis of the progressive rationalization and humanization of criminal laws and procedures, sentencing policies and dispositional alternatives, within the overall framework of social justice and societal aspirations.

"15. A systematic approach to crime prevention planning should be pursued to provide for the incorporation of crime prevention policies into national development planning, starting from an overall reassessment of substantive criminal and procedural laws whenever appropriate. This approach would include the introduction of the processes of decriminalization, depenalization and diversion, as well as reforms of procedures that would ensure the support of members of the public and review of existing policies with a view to assessing their impact. It would also include appropriate links to be established between the criminal justice system and other development sectors, including education, employment, health, social policy and other related fields.

"16. The trial process should be consonant with the cultural realities and social values of society, in order to make it understood and to permit it to operate effectively within the community it serves. Observance of human rights, equality, fairness and consistency should be ensured at all stages of the process.

"B. *International, scientific and technical co-operation*

"17. In order to increase the effectiveness of international co-operation in crime prevention and criminal justice, concerted efforts should be made towards: (a) the ratification and implementation of existing international instruments; 44/ (b) the development of bilateral and multilateral

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44/ As noted in the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order (see *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. B, para. 36, footnote 6), the need for international co-operation in crime prevention and criminal justice is recognized, *inter alia*, in the following instruments: Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III)); Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (General Assembly resolution 317 (IV)); International Convention on the Suppression of Punishment of the Crime of *Apartheid* (General Assembly resolution 3068 (XXVIII)); Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (General Assembly resolution 3166 (XXVIII, annex)); International instruments; and (c) the preparation and elaboration of model instruments and standards for use at the national, bilateral, multilateral, subregional, regional and interregional levels. The Committee on Crime Prevention and Control should study the formulation of a comprehensive international convention on co-operation in criminal matters, consolidating, *inter alia*, the existing and emerging treaties in this field, including extradition, mutual assistance, the transfer of foreign prisoners, the transfer of supervision of conditionally sentenced or released foreign offenders, and the enforcement of criminal judgements and court orders on the forfeiture of illicit assets.

"18. The formulation of international instruments, standards and norms should include the following specific areas of concern: (a) judicial assistance treaties, in particular between common law and civil law countries, dealing with the means for obtaining evidence conforming to the requirements of the requesting State; (b) development of standardized requests for extradition and mutual assistance; (c) development of the means of providing assistance to victims of crime and abuse of power, with emphasis on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 45/ and of providing adequate protection for witnesses; (d) further consideration of issues of transnational jurisdiction in order to assist in the process of responding to requests for extradition and mutual assistance and in the implementation of international instruments; and (e) elaboration of standards for international assistance in respect of bank secrecy, facilitating the seizure and confiscation of proceeds in bank accounts

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(continued)

Convention against the Taking of Hostages (General Assembly resolution 34/146); Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 3452 (XXX)); Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169); Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, of 14 September 1963 (United Nations, *Treaty Series*, vol. 704, No. 10106, p. 219); The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, of 16 December 1970 (United Nations, *Treaty Series*, vol. 860, No. 12325, p. 105); Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, of 23 September 1971 [with the Final Act of the International Conference on Air Law held under the auspices of the International Civil Aviation Organization at Montreal in September 1971] (United Nations, *Treaty Series*, vol. 974, No. 14118, p. 177); Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs of 1961 (United Nations, *Treaty Series*, vol. 976, No. 14151, p. 1); Convention on Psychotropic Substances of 1971 (United Nations, *Treaty Series*, vol. 1019, No. 14956, p. 175). The need for such co-operation is also recognized in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted at Vienna on 19 December 1988 (E/CONF.82/15 and Corr.2).

45/ General Assembly resolution 40/34, annex.

derived from criminal acts. In particular, banking organizations should be urged to standardize their reporting requirements and documents so that these can be used more rapidly and effectively as evidence. More effective international standards to inhibit the laundering of money and investment connected with criminal activities, such as narcotics trafficking and terrorism, should also be developed.

"19. Member States, intergovernmental and non-governmental organizations and international, national and private funding agencies should assist the United Nations in the establishment and operation of a global crime prevention and criminal justice information network. Member States are urged to contribute to this endeavour by financing equipment and expertise. Consideration should also be given to what categories of criminal justice data can be provided and exchanged on a regular basis.

"20. In accordance with the numerous decisions and resolutions of relevant organs of the United Nations, including the five-yearly United Nations congresses on the prevention of crime and the treatment of offenders, measures should be taken to strengthen programmes of international technical and scientific co-operation in the field of crime prevention and criminal justice on a bilateral and multilateral basis, as substantive components of broader development programmes, taking into account the special needs of developing countries and, in particular, the worsening socio-economic situation in many of them, which contributes to the increase of structural inequality and criminality.

"21. In order to formulate and develop proper regional and interregional strategies of international, technical and scientific co-operation in combating crime and improving the effectiveness of preventive and criminal justice activities, the programmes of technical and scientific co-operation should be directed especially towards: (a) reinforcement of the technical capacities of the criminal justice agencies; (b) an upgrading of the human and technical resources in all sectors of the criminal justice system in order to stimulate technical assistance, model and demonstration projects, research activities and training programmes, in close co-operation with the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders and competent non-governmental organizations; (c) the further development and improvement, at the national, regional, interregional and international levels, of information bases for the collection, analysis and dissemination of data on crime trends, innovative ways and methods of crime prevention and control, the operation of criminal justice agencies, in order to provide an appropriate basis for policy-formulation and programme implementation; (d) the promotion, through educational programmes and training activities, of the implementation of United Nations norms, guidelines and standards in crime prevention and criminal justice; and (e) the elaboration and implementation of joint strategies and collaborative arrangements to deal with crime problems of mutual concern.

"22. The Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, as the focal point of United Nations activities in this field, the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders, the co-operating entities like the Arab Security Studies and Training Center, the interregional advisory services in crime prevention and criminal justice, and other relevant United Nations bodies, as well as intergovernmental and non-governmental organizations enjoying consultative status with the Economic and Social Council, should be strengthened so as to increase the scope of their operations, improve their co-ordination and diversify forms and methods of technical and scientific co-operation.

"23. The role of the Committee on Crime Prevention and Control as the principal body dealing with crime prevention and criminal justice matters entrusted, inter alia, with the preparations for the United Nations congresses on the prevention of crime and the treatment of offenders, should be further enhanced so as to enable it to fulfil its important functions.

"24. The capacity of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, as the only professional and specialized entity within the United Nations system with overall responsibility for its crime prevention and criminal justice programme, should be strengthened in terms of both human and financial resources. Prompt implementation of the General Assembly and Economic and Social Council resolutions related thereto is urgently needed. In particular, priority attention should be given to the implementation of paragraphs 4 and 5 of General Assembly resolution 42/59, in which the Assembly approved the recommendations on the review of the functioning and programme of work of the United Nations in the field of crime prevention and criminal justice (E/1987/43) contained in Economic and Social Council resolutions 1986/11 and 1987/53 and requested the Secretary-General, inter alia, to take measures to ensure that the programme of work is supported by adequate resources; and paragraph 3 (a) of Economic and Social Council resolution 1987/53, in which the Council requested the Secretary-General to develop the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs as a specialized body and facilitating agent in the field of crime prevention and criminal justice. Attention should also be given to other relevant resolutions of the General Assembly and the Economic and Social Council, as well as to the recommendations of the regional preparatory meetings for the Eighth Congress and of the Committee on Crime Prevention and Control.

"25. The United Nations regional and interregional institutes for crime prevention and the treatment of offenders should further develop their research, training and technical assistance capacities, and widen their collaborative networks through more extensive reliance on non-governmental organizations and national research and educational institutions, in order to meet the growing requests from developing countries for technical and scientific assistance. The Governments concerned, relevant regional bodies and organizations and United Nations entities should actively assist the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders, and particularly the United Nations African Regional Institute for the Prevention of Crime and the Treatment of Offenders, in consolidating its status and further promoting its activities.

"26. Governments should be invited to fund regional advisory services in their regions, directly or through the United Nations Development Programme (UNDP), so as to develop further and complement existing structures and possibilities in this field. The regional commissions should be encouraged to do likewise and should be supported in their efforts to that end.

"27. Special attention should be paid to strengthening the collaborative ties in the field of crime prevention and criminal justice between the Centre for Social Development and Humanitarian Affairs, and the Department of Technical Co-operation for Development of the United Nations Secretariat, UNDP, the World Bank and other relevant entities, with a view to ensuring adequate resources for technical co-operation activities in crime prevention and criminal justice. Interested Governments should give priority to the inclusion of crime prevention and criminal justice projects in the country and regional programmes proposed for UNDP support.

"28. In order to fully implement the mandates emerging from the crime prevention and criminal justice programme and to provide additional technical and scientific expertise and resources for matters of international co-operation in this field, broader involvement of, and assistance by, non-governmental organizations are required.

"29. Governments and other funding agencies should contribute to the United Nations Trust Fund for Social Defence in order to enable the United Nations to implement, in an adequate and effective manner, programmes of technical and scientific co-operation in this field."

Decision 11/105. Management of criminal justice and development of sentencing policies*

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the recommendations on the management of criminal justice and the development of sentencing policies (E/AC.57/1990/5/Add.2, draft resolution I), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 4 (topic II) of its provisional agenda:

"Management of criminal justice and development of sentencing policies

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recalling that the Milan Plan of Action, 46/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, recommended that continued attention should be given to the improvement of criminal justice systems so as to enhance their responsiveness to changing conditions and requirements in society,

"Taking into account the fact that the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 47/ adopted by the Seventh Congress, emphasized that crime prevention and criminal justice should not be treated as isolated problems to be tackled by simplistic, fragmentary methods, but rather as complex and wide-ranging activities requiring systematic strategies and differentiated approaches,

"Aware that the Seventh Congress, in its resolution 8 on criminal justice systems 48/ recommended that Member States should develop and implement adequate training programmes for criminal justice personnel and requested the Secretary-General to develop guidelines for the establishment of training programmes in all parts of the system for criminal justice personnel,

"Mindful that the Seventh Congress, in its resolution 9 on the development of crime and criminal justice information and statistical systems, 48/ requested the Secretary-General to initiate work on the use of information systems in the administration of criminal justice and invited interested Member States to provide for proper measures to enhance the transfer of information within the agencies of the criminal justice system,

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* For the discussion, see chap. IV.

46/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

47/ Ibid., sect. B.

48/ Ibid., sect. E.

"*Considering* that the Seventh Congress, in its resolution 10, *48*/ on the status of prisoners, bore in mind that the Standard Minimum Rules for the Treatment of Prisoners *49*/ inspired the policies of Member States to the benefit of prisoners,

"*Taking into account* Economic and Social Council resolution 1986/10, section XI, of 21 May 1986, in which, *inter alia*, the Council requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider questions concerning alternatives to imprisonment,

"*Convinced* that criminal justice management is a matter of concern for Member States for a number of reasons, including the following:

"(a) Only if the criminal justice system is well managed can rational changes be made to improve the situation;

"(b) Inadequate management of the criminal justice system can result in certain practices, such as long delays before trial, that may create injustices for persons whose cases are being processed by the system;

"(c) Inappropriate management can lead to inappropriate allocation of resources,

"*Emphasizing* that the Standard Minimum Rules for the Treatment of Prisoners establishes a basis for considering issues related to the management of imprisonment,

"*Convinced* that information systems are essential instruments of efficient management and that, in many circumstances, the computerization of such systems can enhance their overall effectiveness,

"*Bearing in mind*, however, that there are both costs and dangers involved in almost every aspect of the computerization of a part of a complex organization,

"*Emphasizing* that Member States can learn from successes and mistakes made in other jurisdictions and can help each other by sharing information concerning software and hardware,

"*Stressing* that criminal law and the criminal justice process should be seen as instruments of last resort in dealing with wrongdoing in society,

"*Taking cognizance* of the fact that in most countries imprisonment is the sanction that is the main focus of criminal legislation, even though it may not be imposed in many criminal cases,

"*Emphasizing* that Member States should develop explicit sentencing policies that would have the effect of reducing levels of imprisonment world-wide, particularly in respect of relatively trivial types of crime,

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49/ See *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1), sect. G.

"Recognizing that successful measures for combating crime are, for the most part, to be found outside the sentencing process, that sentencing practices should be seen neither as a cause of current levels of crime nor as solutions to crime problems in the future, and that, although one of the goals of the criminal justice system as a whole is to reduce crime, the purpose of sentencing is to contribute to that goal by responding in a just and measured fashion to wrongdoing in society,

"Recognizing also that a sentencing policy that accomplishes the aforesaid goal will contribute to the well-being of society by providing for sanctions that preserve the authority of the law and promote respect for it,

"Recognizing further that sentencing is but one stage of the criminal justice system and that, similarly, imprisonment does not occur only as a result of a decision by a judge to sentence an offender,

"Adopts the following recommendations for further action at the national, regional and international levels:

"A. Application of criminal law

"1. Recommends that each Member State should consider taking the following action:

"(a) Developing techniques for reducing to a minimum the intrusion of its criminal justice system into the lives of members of society;

"(b) Creating a process that encourages prosecutors and other officials within the criminal justice system to support techniques of resolving disputes and conflicts, such as those involving mediation and reparation;

"(c) Acknowledging the advisability of allowing an authority such as the prosecutor, where appropriate, to screen certain types of cases out of the criminal justice system instead of always proceeding with formal charges;

"(d) Formulating guidelines for the equitable use of ways of dealing with wrongdoing that are less punitive than the criminal justice system, subject to suitable safeguards;

"B. Ensuring fair treatment

"2. Recommends that, in order to avoid the negative consequences of the premature application of a criminal sanction for persons not yet convicted of an offence, Member States should promote action with a view to achieving the following results:

"(a) Reducing the time between the commencement of criminal proceedings and the final settlement of a case;

"(b) Reducing to a minimum the number of persons committed to custody awaiting trial, in view of the general principle of the presumption of innocence. In particular, efforts should be made to enact legislation that has the effect of holding in custody before trial only persons for whom it can be shown that there are reasonable grounds for believing that they will not appear for trial, that they are likely to commit further serious offences or that they will seriously interfere with the administration of justice, or persons who should be held in custody because of other serious factors related to the charge;

"(c) Ensuring that persons for whom a non-custodial sanction, such as a fine, is adjudicated are not subsequently imprisoned solely because they did not comply with the terms of the originally imposed sanction;

"(d) Establishing practices or policies whereby all information and recommendations relevant to sentencing are made available to the sentencing judge. Such information could come from the defence, the prosecutor or an agent of the court (for example, in the form of a pre-sentence or social inquiry report);

"3. Also recommends that Member States should promote policies and practices to ensure that sanctions are administered fairly, effectively and consistently, that information about the manner of their implementation is provided to sentencing judges and that judges are made aware of the nature, impact and cost of the sanctions available to them;

"4. Further recommends that prisoners should be provided with work opportunities, compatible with their work experience and the prison régime, that special community programmes for released prisoners should be encouraged and that specific measures for the treatment and rehabilitation of recidivists should be introduced;

"C. Sentencing policy

"5. Also recommends that Member States should establish structures and procedures, including effective communication with the judiciary and other relevant criminal justice institutions, to ensure that:

"(a) Exemplary instructions, related, in particular, to sentencing principles are developed to provide guidance to sentencing judges as well as to facilitate an understanding by the offender, the victim and the general public of the case, of the sentencing process and of the decision;

"(b) Such sentencing principles are formulated so that they can be used to assess the appropriateness of individual sentences;

"(c) Sentencing practices are evaluated to establish whether they are fulfilling the purposes ascribed to them;

"6. Further recommends that, in developing the structures and procedures referred to in paragraph 5 above, Member States should take into account the following points:

"(a) The responsibility for the imposition of sentences in particular cases should rest solely with an impartial and independent judiciary and should not be subject to influence or interference by Governments or their executive agencies;

"(b) Fair and coherent sentencing policies should be established and implemented with the support of the judiciary, the legislature and other interested parties and embodied in legislation as appropriate;

"(c) Sentences should be no more onerous than necessary to express society's condemnation of the behaviour involved and to ensure the protection of society from the most dangerous offenders;

"(d) A range of sanctions should be available to enable the sentencing judge to choose the most appropriate one, bearing in mind the following guidelines:

"(i) Sentences involving imprisonment should be imposed only if it can be shown that there are reasonable grounds for believing that community sanctions would be inappropriate;

"(ii) The choice between different sanctions of equivalent severity should be made in consideration of such factors as the likelihood of the offender being rehabilitated and the cost and benefits to other members of society and to society as a whole;

"(e) Imprisonment should be used as a sanction of last resort;

"(f) Only the most serious offences should be excluded from the application of community sanctions; and the full range of sanctions should be equally available for all but the most serious offences;

"(g) Prison sanctions for special categories of offenders, such as pregnant women or mothers with infants or small children, should be restricted and a special effort should be made to avoid the extended use of imprisonment as a sanction for these categories;

"D. Management of imprisonment, especially in crisis situations

"7. Recommends that, in order to reinforce the application of the Standard Minimum Rules for the Treatment of Prisoners, to respond to the current and increasing crisis of overcrowding and other problems facing many prison administrations throughout the world and to promote accountable management, Member States should consider the following action:

"(a) Developing policies and strategies that reduce the use of custody and detention to a minimum. Such policies should be designed and evaluated in their own right, independently of the problem of overcrowding;

"(b) Pursuing, where prison overcrowding nevertheless exists, practical measures such as amnesties, where these are socially acceptable, pardons or other measures specifically designed to alleviate the problem;

"(c) Establishing policies and procedures that allow for judicial review and effective external control of prison administrative policies or practices, especially where there is evidence that the Standard Minimum Rules for the Treatment of Prisoners have not been followed;

"(d) Drawing up specific operational standards and agreed indicators for evaluation for areas covered by the Standard Minimum Rules for the Treatment of Prisoners. Such standards should be expressed in quantitative terms where appropriate and should provide criteria against which the administration of prisons can be periodically evaluated;

"(e) Making the operational standards referred to above readily accessible to all interested parties so that they can be used to evaluate prison operations;

"(f) Supporting efforts by prison administration, as one of the agencies responsible, to begin the process whereby all prisoners can be reintegrated into society, developing policies and procedures to achieve that goal, and making information on those policies publicly available;

"(g) Ensuring that a person who has been released from prison shall be at no more of a disadvantage than any other member of society in terms of having access to benefits provided to the public;

"8. Invites Member States to report periodically on their compliance with the Standard Minimum Rules for the Treatment of Prisoners. Such reports should be made public by the United Nations and should be accessible to all interested persons;

"9. Requests the Secretary-General to allocate resources to assist Member States in accomplishing these tasks, as appropriate;

"E. Management and training

"10. Recommends that Member States should consider the following policies:

"(a) Designing methods for measuring and projecting trends in criminality and in judicial practices and for evaluating the results of policy decisions, according to their specific circumstances;

"(b) Within their legal frameworks, structuring the management of each part of the criminal justice system so that an information base for coherent policies can be developed and ensuring that the impact of decisions in one part of the system is considered in the light of their effects on others;

"(c) Evaluating decisions within one part of the criminal justice system in the light of the goals not only of that part of the system, but also of the system as a whole;

"(d) Acknowledging that staff training in the criminal justice system should aim at creating an understanding of the role of each person and each service in the context of the goals of the system as a whole;

"(e) Encouraging staff training on an inter-service basis in order to promote awareness of the interdependence of different parts of the criminal justice system;

"(f) Fostering, where practicable, the development of joint training programmes between Member States in order to facilitate the exchange of new ideas and perspectives on the training of criminal justice personnel and on solutions to management problems;

"(g) Making efforts and, where possible, obtaining funding for Member States to exchange personnel for training programmes;

"F. Management and computers

"11. Recommends that Member States should consider the following action:

"(a) Assessing, prior to making a decision on the computerization of their criminal justice systems, the costs and benefits of such a decision, including the associated indirect costs;

"(b) Determining the type of data to be included in such an information system, since that will have a direct impact on the factors on which decisions may be based at a later stage;

"(c) Monitoring carefully the installation procedures and the results of computerization to ensure that the explicitly stated original goals are being effectively met;

"(d) Ensuring the protection of the rights of individuals (offenders, victims and others);

"(e) Taking into account, if such computerization has already begun, the following points:

"(i) How decisions on the nature and extent of information collected and the definition of terms or units used will facilitate the effective management of the criminal justice system as a whole;

"(ii) How such decisions might affect the future potential for comparative analyses of different jurisdictions at the national and international levels;

"12. Invites Member States that have not yet begun to computerize their criminal justice systems to take into account the recommendations of the European Seminar on Computerization of Criminal Justice Information Systems: Realities, Methods, Prospects and Effects, held at Popowo, Poland, from 18 to 22 May 1987; 50/

"13. Requests the Secretary-General:

"(a) To develop a data base of innovative programmes for the computerization of criminal justice systems that might be applicable to systems in Member States;

50/ See Helsinki Institute for Crime Prevention and Control, Computerization of Criminal Justice Information Systems: Realities, Methods, Prospects and Effects, HEUNI No. 12 (Helsinki, Government Printing Office, 1987).

"(b) To facilitate the exchange of information, experience and personnel between jurisdictions that are in the process of computerizing some aspects of their criminal justice systems and those that are at a more advanced stage of that process;

"(c) To disseminate information on relevant experience in that area;

"(d) To provide adequate resources for the completion of these tasks."

Decision 11/106. Model treaty on extradition*

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed model treaty on extradition (E/AC.57/1990/5/Add.3, draft resolution IV), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 5 (topic III) of its provisional agenda:

"Model Treaty on Extradition

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Bearing in mind* the Milan Plan of Action, 51/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in its resolution 40/32 of 29 November 1985,

"*Bearing in mind also* the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 52/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

"*Recalling* resolution 1 of the Seventh Congress, 53/ in which Member States were urged, *inter alia*, to increase their activity at the international level in order to combat organized crime, including, as appropriate, entering into bilateral treaties on extradition and mutual legal assistance,

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* For the discussion, see chap. IV.

51/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

52/ *Ibid*., sect. B.

53/ *Ibid*., sect. E.

"*Recalling also* resolution 23 of the Seventh Congress on criminal acts of a terrorist character, 53/ in which all States were called upon to take steps to strengthen co-operation, *inter alia*, in the area of extradition,

"*Calling attention* to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 54/

"*Acknowledging* the valuable contributions of Governments, non-governmental organizations and individual experts, in particular the Government of Australia and the International Association of Penal Law,

"*Gravely concerned* by the escalation of crime, both national and transnational,

"*Convinced* that the establishment of bilateral and multilateral arrangements for extradition will greatly contribute to developing more effective international co-operation for the control of crime,

"*Conscious* of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 55/ and the International Covenant on Civil and Political Rights, 56/

"*Recognizing* the importance of the model treaty on extradition as an effective way of dealing with the complex aspects and serious consequences of crime, especially in its new forms and dimensions,

"1. *Adopts* the Model Treaty on Extradition contained in the annex to the present resolution as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral agreements aimed at improving co-operation in matters of crime prevention and criminal justice;

"2. *Invites* Member States, if they have not yet established treaty relations with other States in the area of extradition, or if they wish to revise existing treaty relations, to take into account, whenever doing so, the Model Treaty on Extradition;

"3. *Urges* all States to strengthen international co-operation further in criminal justice;

"4. *Requests* the Secretary-General to bring the present resolution, with the Model Treaty, to the attention of Member States;

"5. *Also urges* Member States to inform the Secretary-General periodically of efforts undertaken to establish extradition arrangements;

54/ E/CONF.82/15 and Corr.2.

55/ General Assembly resolution 217 A (III).

56/ General Assembly resolution 2200 A (XXI), annex.

"6. **Requests** the Committee on Crime Prevention and Control to review periodically the progress attained in this field.

"Annex

"MODEL TREATY ON EXTRADITION

"The ________________________________ and the ________________________________,

"Desirous of making more effective the co-operation of the two countries in the control of crime by concluding a treaty on extradition,

"Have agreed as follows:

"ARTICLE 1

"Obligation to extradite

"Each Party agrees to extradite to the other, upon request and subject to the provisions of this Treaty, any person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence. 57/

"ARTICLE 2

"Extraditable offences

"1. For the purposes of this Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment or other deprivation of liberty for a maximum period of at least [one/two] year(s), or by a more severe penalty. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of at least [four/six] months of such sentence remains to be served.

"2. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:

"(a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;

"(b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting State shall be taken into account.

57/ Reference to the imposition of a sentence may not be necessary for all countries.

"3. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control or other revenue matters, extradition may not be refused on the ground that the law of the requested State does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange regulation of the same kind as the law of the requesting State. 58/

"4. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in paragraph 2 of this article, the requested Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

"ARTICLE 3

"Mandatory grounds for refusal

"Extradition shall not be granted in any of the following circumstances:

"(a) If the offence for which extradition is requested is regarded by the requested State as an offence of a political nature. [Reference to an offence of a political nature shall not include any offence in respect of which the Parties have assumed an obligation, pursuant to any multilateral convention, to take prosecutorial action where they do not extradite, nor any other offence agreed by the Parties not to be an offence of a political character for the purposes of extradition.];

"(b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;

"(c) If the offence for which extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law;

"(d) If there has been a final judgement rendered against the person in the requested State in respect of the offence for which the person's extradition is requested;

"(e) If the person whose extradition is requested has, under the law of either Party, become immune from prosecution or punishment for any reason, including lapse of time or amnesty; 59/

58/ Some countries may wish to omit this paragraph or provide an optional ground for refusal under article 4.

59/ Some countries may wish to make this an optional ground for refusal under article 4.

"(f) If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, article 14; 60/

"(g) If the judgement of the requesting State has been rendered *in absentia*, the convicted person has not had sufficient notice of the trial nor the opportunity to arrange for his or her defence and he has not had or will not have the opportunity to have the case retried in his or her presence. 61/

"ARTICLE 4

"Optional grounds for refusal

"Extradition may be refused in any of the following circumstances:

"(a) If the person whose extradition is requested is a national of the requested State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person in respect of the offence for which extradition had been requested;

"(b) If the competent authorities of the requested State have decided either not to institute or to terminate proceedings against the person for the offence in respect of which extradition is requested;

"(c) If a prosecution in respect of the offence for which extradition is requested is pending in the requested State against the person whose extradition is requested;

"(d) If the offence for which extradition is requested carries the death penalty under the law of the requesting State, unless that State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out; 62/

"(e) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;

60/ General Assembly resolution 2200 A (XXI), annex.

61/ Some countries may wish to add to article 3 the following ground for refusal: "If there is insufficient proof, according to the evidentiary standards of the requested State, that the person whose extradition is requested is a party to the offence" (see also footnote 64/).

62/ Some countries may wish to apply the same restriction to the imposition of a life, or indeterminate, sentence.

"(f) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part within that State. 63/ Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;

"(g) If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;

"(h) If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person.

"ARTICLE 5

"Channels of communication and required documents

"1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the diplomatic channel, directly between the ministries of justice or any other authorities designated by the Parties.

"2. A request for extradition shall be accompanied by the following:

"(a) In all cases,

"(i) As accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality and location;

"(ii) The text of the relevant provision of the law creating the offence or, where necessary, a statement of the relevant law as to the offence and a statement of the penalty that can be imposed for the offence;

"(b) If the person is accused of an offence, by a warrant issued by a court or other competent judicial authority for the arrest of the person or a certified copy of that warrant, a statement of the offence for which extradition is requested and a description of the acts or omissions

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63/ Some countries may wish to make specific reference to a vessel under its flag or an aircraft registered under its laws at the time of the commission of the offence.

constituting the alleged offence, including an indication of the time and place of its commission; 64/

"(c) If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgement or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;

"(d) If the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 9 (c) above, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence;

"(e) If the person has been convicted of an offence but no sentence has been imposed, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to impose a sentence.

"3. The documents submitted in support of a request for extradition shall be accompanied by a translation into the language of the requested State or in another language acceptable to that State.

"ARTICLE 6

"Simplified extradition procedure

"The requested State, if not precluded by its law, may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

"ARTICLE 7

"Certification and authentication

"Except as provided by this Treaty, a request for extradition and the supporting documents thereto, as well as documents or other material supplied in response to such a request, shall not require certification or authentication. 65/

64/ Countries that require a judicial assessment of the sufficiency of evidence may wish to add the following clause: "... and sufficient proof in a form acceptable under the law of the requested State, establishing, according to the evidentiary standards of that State, that the person is a party to the offence" (see also footnote 61/.)

65/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

"ARTICLE 8

"Additional information

"If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within such reasonable time as it specifies.

"ARTICLE 9

"Provisional arrest

"1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organization, by post or telegraph or by any other means affording a record in writing.

"2. The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 9 of article 5 authorizing the apprehension of the person, a statement of the punishment that can be or has been imposed for the offence, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.

"3. The requested State shall decide on the application in accordance with its law and communicate its decision to the requesting State without delay.

"4. The person arrested upon such an application shall be set at liberty upon the expiration of [40] days from the date of arrest if a request for extradition, supported by the relevant documents specified in paragraph 9 of article 5, has not been received. This paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the [40] days.

"5. The release of the person pursuant to paragraph 17 of this article shall not prevent rearrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.

"ARTICLE 10

"Decision on the request

"1. The requested State shall deal with the request for extradition pursuant to procedures provided by its own law, and shall promptly communicate its decision to the requesting State.

"2. Reasons shall be given for any complete or partial refusal of the request.

"ARTICLE 11

"Surrender of the person

"1. Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the requested State shall inform the requesting State of the length of time for which the person sought was detained with a view to surrender.

"2. The person shall be removed from the territory of the requested State within such reasonable period as the requested State specifies and, if the person is not removed within that period, the requested State may release the person and may refuse to extradite that person for the same offence.

"3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 22 of this article shall apply.

"ARTICLE 12

"Postponed or conditional surrender

"1. The requested State may, after making its decision on the request for extradition, postpone the surrender of a person sought, in order to proceed against that person, or, if that person has already been convicted, in order to enforce a sentence imposed for an offence other than that for which extradition is sought. In such case the requested State shall advise the requesting State accordingly.

"2. The requested State may, instead of postponing surrender, temporarily surrender the person sought to the requesting State in accordance with conditions to be determined between the Parties.

"ARTICLE 13

"Surrender of property

"1. To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all property found in the requested State that has been acquired as a result of the offence or that may be required as evidence shall, if the requesting State so requests, be surrendered if extradition is granted.

"2. The said property may, if the requesting State so requests, be surrendered to the requesting State even if the extradition having been agreed to cannot be carried out.

"3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.

"4. Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

ARTICLE 14

"Rule of speciality

"1. A person extradited under this Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than:

"(a) An offence for which extradition was granted;

"(b) Any other offence in respect of which the requested State consents. 66/ Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with this Treaty. 67/

"2. A request for the consent of the requested State under this article shall be accompanied by the documents mentioned in paragraph 9 of article 5 and a legal record of any statement made by the extradited person with respect to the offence.

"3. Paragraph 30 of this article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within [30/45] days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

"ARTICLE 15

"Transit

"1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.

66/ Some countries may wish to add, as a third case, explicit consent of the person.

67/ Some countries may not wish to assume that obligation and may wish to include other grounds in determining whether or not to grant consent.

"2. Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby. 68/

"3. The State of transit shall ensure that legal provisions exist enabling the person to be held in custody during transit.

"4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for [48] hours, pending receipt of the transit request to be made in accordance with paragraph 33 of this article.

"ARTICLE 16

"Concurrent requests

"If a Party receives requests for extradition for the same person from both the other Party and a third State it shall, at its discretion, determine to which of those States the person is to be extradited.

"ARTICLE 17

"Costs

"1. The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition.

"2. The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought. 69/

"3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

"ARTICLE 18

"Final provisions

"1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

68/ Some countries may wish to agree on other grounds for refusal, which may also warrant refusal for extradition, such as those related to the nature of the offence (e.g. political, fiscal, military) or to the status of the person (e.g. own nationals).

69/ Some countries may wish to consider reimbursement of costs incurred as a result of withdrawal of a request for extradition or provisional arrest.

"2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.

"3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

"4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.

"In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

______________________________ ______________________________

Done at ______________ on ______________ in the ______________________
and ______________ languages (both) texts being equally authentic."
(all)

Decision 11/107. Basic principles on the use of force and firearms by law enforcement officials*

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed basic principles on the use of force and firearms by law enforcement officials (E/AC.57/1990/5/Add.5, draft resolution I), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 7 (topic V) of its provisional agenda:

"Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recalling the Milan Plan of Action, 70/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

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* For the discussion, see chap. IV.

70/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

"*Recalling also* resolution 14 of the Seventh Congress, [71] in which the Committee on Crime Prevention and Control was called upon to consider measures for the more effective implementation of the Code of Conduct for Law Enforcement Officials,

"*Taking note with appreciation* of the work accomplished, in pursuance of resolution 14 of the Seventh Congress, [71] by the Committee, by the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting, [72] and by the regional preparatory meetings for the Eighth Congress,

"1. *Adopts* the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials contained in the annex to the present resolution;

"2. *Recommends* the Basic Principles for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

"3. *Invites* Member States to take into account and to respect the Basic Principles within the framework of their national legislation and practice;

"4. *Also invites* Member States to bring the Basic Principles to the attention of law enforcement officials and other members of the executive branch of government, judges, lawyers, the legislature and the public in general;

"5. *Further invites* Member States to inform the Secretary-General every five years, beginning in 1992, of the progress achieved in the implementation of the Basic Principles, including their dissemination, their incorporation into domestic legislation, practice, procedures and policies, the problems faced in their implementation at the national level and assistance that might be needed from the international community, and requests the Secretary-General to report thereon to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

"6. *Appeals* to all Governments to promote seminars and training courses at the national and regional levels on the role of law enforcement and the need for restraints on the use of force and firearms by law enforcement officials;

"7. *Urges* the regional commissions, the regional and interregional institutes in crime prevention and criminal justice, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to become actively involved in the implementation of the Basic Principles and to inform the Secretary-General of the efforts made to disseminate and implement the Basic Principles and the extent of their implementation, and requests the Secretary-General to include this information in his report to the Ninth Congress;

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[71] *Ibid*., sect. E.

[72] A/CONF.144/IPM.5.

"8. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, ways and means of ensuring the effective implementation of the present resolution;

"9. Requests the Secretary-General:

"(a) To take steps, as appropriate, to bring this resolution to the attention of Governments and all United Nations bodies concerned, and to provide for the widest possible dissemination of the Basic Principles;

"(b) To include the Basic Principles in the next edition of the United Nations publication entitled *Human Rights: A Compilation of International Instruments*;

"(c) To provide Governments, at their request, with the services of experts and regional and interregional advisers to assist in implementing the Basic Principles and to report to the Ninth Congress on the technical assistance and training actually provided;

"(d) To report to the Committee, at its twelfth session, on the steps taken to implement the Basic Principles;

"10. Requests the Ninth Congress and its preparatory meetings to consider the progress achieved in the implementation of the Basic Principles.

"Annex

"BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS

"*Whereas* the work of law enforcement officials [73] is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

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[73] In accordance with the commentary to article 1 of the Code of Conduct for Law Enforcement Officials, the term "law enforcement officials" includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

"*Whereas* a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

"*Whereas* law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights [74] and reaffirmed in the International Covenant on Civil and Political Rights, [75]

"*Whereas* the Standard Minimum Rules for the Treatment of Prisoners [76] provide for the circumstances in which prison officials may use force in the course of their duties,

"*Whereas* article 3 of the Code of Conduct for Law Enforcement Officials [76] provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

"*Whereas* the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials, [77]

"*Whereas* the Seventh Congress, in its resolution 14, [78] *inter alia*, emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

"*Whereas* the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, *inter alia*, welcomed this recommendation made by the Council,

"*Whereas* it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct,

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[74] General Assembly resolution 217 A (III).

[75] General Assembly resolution 2200 A (XXI), annex.

[76] See *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1), sect. G.

[77] A/CONF.121/IPM.3, para. 34.

[78] See *Seventh United Nations Congress* ... chap. I, sect. E.

"The basic principles set forth below, which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

"General provisions

"1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.

"2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, law enforcement officials should also be equipped with self-defensive equipment such as shields, helmets or bullet-proof vests in order to decrease the need to use weapons of any kind.

"3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.

"4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

"5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

"(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

"(b) Minimize damage and respect and preserve human life;

"(c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

"(d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

"6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.

"7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

"8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

"Special provisions

"9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life and public safety, to arrest a person presenting such a danger and resisting or attacking their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

"10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

"11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

"(a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;

"(b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;

"(c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;

"(d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;

"(e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;

"(f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

"Policing unlawful assemblies

"12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.

"13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

"14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. The use of such means shall be strictly regulated in national legislation and restricted solely to particularly dangerous violent assemblies. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

"Policing persons in custody or detention

"15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

"16. Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.

"17. The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

"Qualifications, training and counselling

"18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training.

"19. Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.

"20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.

"21. Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

"Reporting and review procedures

"22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative and prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

"23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent review process, including the judiciary. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

"24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or could reasonably be expected to know, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

"25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

"26. Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility should also rest on the superiors who gave the unlawful orders."

Decision 11/108. United Nations standard minimum rules for non-custodial measures (the Tokyo rules)*

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed United Nations standard minimum rules for non-custodial measures (the Tokyo rules) (E/AC.57/1990/5/Add.2, draft resolution II), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 4 (topic II) of its provisional agenda:

"United Nations Standard Minimum Rules for Non-Custodial Measures
(The Tokyo Rules)

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Bearing in mind* the Universal Declaration of Human Rights 79/ and the International Covenant on Civil and Political Rights, 80/ as well as other international human rights instruments pertaining to the rights of persons in conflict with the law,

"*Bearing in mind also* the Standard Minimum Rules for the Treatment of Prisoners, 81/ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the important contribution of those Rules to national policies and practices,

"*Recalling* resolution 8 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders 82/ on alternatives to imprisonment,

"*Recalling also* resolution 16 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders 83/ on reduction of the prison population, alternatives to imprisonment, and social integration of offenders,

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* For the discussion, see chap. IV.

79/ General Assembly resolution 217 A (III).

80/ General Assembly resolution 2200 A (XXI), annex.

81/ See *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1), sect. G.

82/ See *Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980* (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.

83/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

"Recalling further Economic and Social Council resolution 1986/10 of 21 May 1986, section XI, on alternatives to imprisonment, in which the Secretary-General was requested to prepare a report on alternatives to imprisonment for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to study that question with a view to the formulation of basic principles in that area, with the assistance of the regional institutes,

"Recognizing the need to develop local, national, regional and international approaches and strategies in the field of non-institutional treatment of offenders and the need to formulate standard minimum rules, as emphasized in the report of the Committee on Crime Prevention and Control on its fourth session, concerning the methods and measures likely to be most effective in preventing crime and improving the treatment of offenders, 84/

"Convinced that alternatives to imprisonment can be an effective means of treating offenders within the community to the best advantage of both the offenders and society,

"Aware that the restriction of liberty is justifiable only from the viewpoints of public safety, crime prevention, just retribution and deterrence and that the ultimate goal of the criminal justice system is the reintegration of the offender into society,

"Emphasizing that the increasing prison population and prison overcrowding in many countries constitute factors that create difficulties for the proper implementation of the Standard Minimum Rules for the Treatment of Prisoners,

"Taking note with appreciation of the work accomplished by the Committee on Crime Prevention and Control, as well as the interregional preparatory meeting on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures and by the regional preparatory meetings for the Eighth Congress,

"Expressing its gratitude to the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders for the work accomplished in the development of the Standard Minimum Rules for Non-Custodial Measures, as well as to the various intergovernmental and non-governmental organizations involved, in particular, the International Penal and Penitentiary Foundation for its contribution to the preparatory work,

"1. Adopts the United Nations Standard Minimum Rules for Non-Custodial Measures, contained in the annex to the present resolution, and approves the recommendation of the Committee on Crime Prevention and Control that the Rules should be known as 'the Tokyo Rules'; 85/

84/ E/CN.5/536, annex.

85/ A/CONF.144/IPM.4, chap. III, para. 73.

"2. Recommends the Tokyo Rules for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

"3. Calls upon Member States to apply the Tokyo Rules in their policies and practice;

"4. Invites Member States to bring the Tokyo Rules to the attention of, for example, law enforcement officials, prosecutors, judges, probation officers, lawyers, victims, offenders, social services and non-governmental organizations involved in the application of non-custodial measures, as well as members of the executive, the legislature and the general public;

"5. Requests Member States to report on the implementation of the Tokyo Rules every five years, beginning in 1994;

"6. Urges the regional commissions, the regional and interregional institutes in the field of the prevention of crime and the treatment of offenders, specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to be actively involved in the implementation of the Tokyo Rules;

"7. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, the implementation of the present resolution;

"8. Requests the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the Tokyo Rules, including their transmission to Governments, interested intergovernmental and non-governmental organizations and other parties concerned;

"9. Also requests the Secretary-General to prepare every five years, beginning in 1994, a report for the Committee on Crime Prevention and Control on the implementation of the Tokyo Rules;

"10. Further requests the Secretary-General to assist Member States, at their request, in the implementation of the Tokyo Rules and to report regularly thereon to the Committee on Crime Prevention and Control;

"11. Requests that the present resolution and the text of the annex be brought to the attention of all United Nations bodies concerned and be included in the next edition of the United Nations publication entitled Human Rights: A Compilation of International Instruments.

"Annex

"UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES (THE TOKYO RULES)

"I. GENERAL PRINCIPLES

"1. Fundamental aims

"1.1 The present Standard Minimum Rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.

"1.2 The Rules are intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society.

"1.3 The Rules shall be implemented taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.

"1.4 When implementing the Rules, Member States shall endeavour to ensure a proper balance between the rights of individual offenders, the rights of victims, and the concern of society for public safety and crime prevention.

"1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

"2. The scope of non-custodial measures

"2.1 The relevant provisions of these Rules shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice. For the purposes of the Rules, these persons are referred to as 'offenders', irrespective of whether they are suspected, accused or sentenced.

"2.2 The Rules shall be applied without any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.

"2.3 In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system shall provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions.

"2.4 The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.

"2.5 **Consideration shall be given to dealing with offenders in the community avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.**

"2.6 Non-custodial measures should be used in accordance with the principle of minimum intervention.

"2.7 The use of non-custodial measures should be part of the movement towards depenalization and decriminalization instead of interfering with or delaying efforts in that direction.

"3. Legal safeguards

"3.1 The introduction, definition and application of non-custodial measures shall be prescribed by law.

"3.2 The selection of a non-custodial measure shall be based on an assessment of established criteria in respect of both the nature and gravity of the offence and the personality, background of the offender, the purposes of sentencing and the rights of victims.

"3.3 Discretion by the judicial or other competent independent authority shall be exercised at all stages of the proceedings by ensuring full accountability and only in accordance with the rule of law.

"3.4 Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial, shall require the offender's consent.

"3.5 Decisions on the imposition of non-custodial measures shall be subject to review by a judicial or other competent independent authority, upon application by the offender.

"3.6 The offender shall be entitled to make a request or complaint to a judicial or other competent independent authority on matters affecting his or her individual rights in the implementation of non-custodial measures.

"3.7 Appropriate machinery shall be provided for the recourse and, if possible, redress of any grievance related to non-compliance with internationally recognized human rights.

"3.8 Non-custodial measures shall not involve medical or psychological experimentation on, or undue risk of physical or mental injury to, the offender.

"3.9 The dignity of the offender subject to non-custodial measures shall be protected at all times.

"3.10 In the implementation of non-custodial measures, the offender's rights shall not be restricted further than was authorized by the competent authority that rendered the original decision.

"3.11 In the application of non-custodial measures, the offender's right to privacy shall be respected, as shall be the right to privacy of the offender's family.

"3.12 The offender's personal records shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the offender's case or to other duly authorized persons.

"4. Saving clause

"4.1 Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners, 81/ the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 81/ the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 86/ or any other human rights instruments and standards recognized by the international community and relating to the treatment of offenders and the protection of their basic human rights.

"II. PRE-TRIAL STAGE

"5. Pre-trial dispositions

"5.1 Where appropriate and compatible with the legal system, the police, the prosecution service or other agencies dealing with criminal cases should be empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of society, crime prevention or the promotion of respect for the law and the rights of victims. For the purpose of deciding upon the appropriateness of discharge or determination of proceedings, a set of established criteria shall be developed within each legal system. For minor cases the prosecutor may impose suitable non-custodial measures, as appropriate.

"6. Avoidance of pre-trial detention

"6.1 Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim.

"6.2 Alternatives to pre-trial detention shall be employed at as early a stage as possible. Pre-trial detention shall last no longer than necessary to achieve the objectives stated under rule 5.1 and shall be administered humanely and with respect for the inherent dignity of human beings.

86/ General Assembly resolution 43/173, annex.

"6.3 The offender shall have the right to appeal to a judicial or other competent independent authority in cases where pre-trial detention is employed.

"III. TRIAL AND SENTENCING STAGE

"7. Social inquiry reports

"7.1 If the possibility of social inquiry reports exists, the judicial authority may avail itself of a report prepared by a competent, authorized official or agency. The report should contain information on the social background of the offender and may include other circumstances relevant to the imposition of non-custodial measures. The report shall be factual, objective and unbiased, with any expression of opinion clearly identified.

"8. Sentencing dispositions

"8.1 The judicial authority, having at its disposal a range of non-custodial measures, should take into consideration in making its decision the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate.

"8.2 Sentencing authorities may dispose of cases in the following ways:

(a) Verbal sanctions, such as admonition, reprimand and warning;

(b) Conditional discharge;

(c) Status penalties;

(d) Economic sanctions and monetary penalties, such as fines and day-fines;

(e) Confiscation or an expropriation order;

(f) Restitution to the victim or a compensation order;

(g) Suspended or deferred sentence;

(h) Probation and judicial supervision;

(i) A community service order;

(j) Referral to an attendance centre;

(k) House arrest;

(l) Any other mode of non-institutional treatment;

(m) Some combination of the measures listed above.

"IV. POST-SENTENCING STAGE

"9. Post-sentencing dispositions

"9.1 The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalization as far as possible and to assist offenders in their early reintegration into society.

"9.2 Post-sentencing dispositions may include:

(a) Furlough and half-way houses;

(b) Work or education release;

(c) Various forms of parole;

(d) Remission;

(e) Pardon.

"9.3 The decision on post-sentencing dispositions, except in the case of pardon, shall be subject to review by a judicial or other competent independent authority, upon application of the offender.

"9.4 Any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage.

"V. IMPLEMENTATION OF NON-CUSTODIAL MEASURES

"10. Supervision

"10.1 If a non-custodial measure entails supervision, the latter shall be carried out by a competent authority under the specific conditions prescribed by law.

"10.2 Within the framework of a given non-custodial measure, the most suitable type of supervision and treatment should be determined for each individual case. Supervision and treatment should be periodically reviewed and adjusted as necessary.

"10.3 Offenders shall be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society.

"11. Duration

"11.1 The duration of a non-custodial measure shall not exceed the period established by the competent authority in accordance with the law.

"11.2 Provision may be made for early termination of the measure if the offender has responded favourably to it.

"12. Conditions

"12.1 If the competent authority shall determine the conditions to be observed by the offender, it should take into account both the needs of society and the needs and rights of the offender and the victim.

"12.2 The conditions to be observed shall be practical, precise and as few as possible, and be aimed at reducing the likelihood of an offender relapsing into criminal behaviour and of increasing the offender's chances of social integration, taking into account the needs of the victim.

"12.3 At the beginning of the application of a non-custodial measure, the offender shall receive an explanation, orally and in writing, of the conditions governing the application of the measure, including the offender's obligations and rights.

"12.4 The conditions may be modified by the competent authority under the established statutory provisions, in accordance with the progress made by the offender.

"13. Treatment process

"13.1 Within the framework of a given non-custodial measure, various schemes, such as case-work, group therapy, residential programmes and the specialized treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.

"13.2 Treatment should be conducted by professionals who have suitable training and practical experience.

"13.3 When it is decided that treatment is necessary, efforts should be made to understand the offender's background, personality, aptitude, intelligence, values and, especially, the circumstances leading to the commission of the offence.

"13.4 The competent authority may involve the community and social support systems, such as the family, neighbourhood, school, work-place and social and religious organizations, lay-persons and volunteers, in the application of non-custodial measures.

"13.5 Case-load assignments shall be maintained as far as practicable at a manageable level to ensure the effective implementation of treatment programmes.

"13.6 For each offender, a case record shall be established and maintained by the competent authority.

"14. Discipline and breach of conditions

"14.1 A breach of the conditions to be observed by the offender may result in a modification or revocation of the non-custodial measure.

"14.2 The modification or revocation of the non-custodial measure shall be made by the competent authority; this shall be done only after a careful examination of the facts adduced by both the supervising officer and the offender.

"14.3 The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.

"14.4 In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative non-custodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.

"14.5 The power to arrest and detain the offender under supervision in cases where there is a breach of the conditions shall be prescribed by law.

"14.6 Upon modification or revocation of the non-custodial measure, the offender shall have the right to appeal to a judicial or other competent independent authority.

"VI. STAFF

"15. Recruitment

"15.1 There shall be no discrimination in the recruitment of staff on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status. The policy regarding staff recruitment should take into consideration national policies of affirmative action and reflect the diversity of the offenders to be supervised.

"15.2 Persons appointed to apply non-custodial measures should be personally suitable and, whenever possible, have appropriate professional training and practical experience. Such qualifications shall be clearly specified.

"15.3 To secure and retain qualified professional staff, appropriate service status, adequate salary and benefits commensurate with the nature of the work should be ensured and ample opportunities should be provided for professional growth and career development.

"16. Staff training

"16.1 The objective of training shall be to make clear to staff their responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society. Training should also give staff an understanding of the need to co-operate in and co-ordinate activities with the agencies concerned.

"16.2 Before entering duty, staff shall be given training that includes instruction on the nature of non-custodial measures, the purposes of supervision and the various modalities of the application of non-custodial measures.

"16.3 After entering duty, staff shall maintain and improve their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

"VII. VOLUNTEERS AND OTHER COMMUNITY RESOURCES

"17. Public participation

"17.1 Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.

"17.2 Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

"18. Public understanding and co-operation

"18.1 Government agencies, the private sector and the general public should be encouraged to support voluntary organizations that promote non-custodial measures.

"18.2 Conferences, seminars, symposia and other activities should be regularly organized to stimulate awareness of the need for public participation in the application of non-custodial measures.

"18.3 All forms of the mass media should be utilized to help to create a constructive public attitude, leading to activities conducive to a broader application of non-custodial treatment and the social integration of offenders.

"18.4 Every effort should be made to inform the public of the importance of its role in the implementation of non-custodial measures.

"19. Volunteers

"19.1 Volunteers shall be carefully screened and recruited on the basis of their aptitude for and interest in the work involved. They shall be properly trained for the specific responsibilities to be discharged by them and shall have access to support and counselling from, and the opportunity to consult with, the competent authority.

"19.2 Volunteers should encourage offenders and their families to develop meaningful ties with the community and a broader sphere of contact by providing counselling and other appropriate forms of assistance according to their capacity and the offenders' needs.

"19.3 Volunteers shall be insured against accident, injury and public liability when carrying out their duties. They shall be reimbursed for authorized expenditures incurred in the course of their work. Public recognition should be extended to them for the services they render for the well-being of the community.

"VIII. RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION

"20. Research and planning

"20.1 As an essential aspect of the planning process, efforts should be made to involve both public and private bodies in the organization and promotion of research on the non-custodial treatment of offenders.

"20.2 Research on the problems that confront clients, practitioners, the community and policy makers should be carried out on a regular basis.

"20.3 Research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the implementation of non-custodial treatment for offenders.

"21. Policy formulation and programme development

"21.1 Programmes for non-custodial measures should be systematically planned and implemented as an integral part of the criminal justice system within the national development process.

"21.2 Regular evaluations should be carried out with a view to implementing non-custodial measures more effectively.

"21.3 Periodic reviews should be conducted to assess the objectives, functioning and effectiveness of non-custodial measures.

"22. Linkages with relevant agencies and activities

"22.1 Suitable mechanisms should be evolved at various levels to facilitate the establishment of linkages between services responsible for non-custodial measures, other branches of the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and the mass media.

"23. International co-operation

"23.1 Efforts shall be made to promote scientific co-operation between countries in the field of non-institutional treatment. Research, training, technical assistance and the exchange of information among Member States on non-custodial measures should be strengthened, through the United Nations regional and interregional institutes, in close collaboration with the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat.

"23.2 Comparative studies and the harmonization of legislative provisions should be furthered to expand the range of non-institutional options and facilitate their application across national frontiers, in accordance with the Model Treaty on the Transfer of Supervision of Offenders Who Have Been Conditionally Sentenced or Conditionally Released." [87]

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[87] A/CONF.144/IPM.5.

Decision 11/109. *Basic principles on the role of lawyers**

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed basic principles on the role of lawyers (E/AC.57/1990/5/Add.5, draft resolution II), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 7 (topic V) of its provisional agenda:

"*Basic Principles on the Role of Lawyers*

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Recalling* the Milan Plan of Action, 88/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

"*Recalling also* resolution 18 of the Seventh Congress, 89/ in which the Congress recommended that Member States provide for the protection of practising lawyers against undue restrictions and pressures in the exercise of their functions,

"*Taking note with appreciation* of the work accomplished, in pursuance of Seventh Congress resolution 18, by the Committee on Crime Prevention and Control, by the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting, 90/ and by the regional preparatory meetings for the Eighth Congress,

"1. *Adopts* the Basic Principles on the Role of Lawyers contained in the annex to the present resolution;

"2. *Recommends* the Basic Principles for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

"3. *Invites* Member States to take into account and to respect the Basic Principles within the framework of their national legislation and practice;

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* For the discussion, see chap. IV.

88/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

89/ *Ibid*., sect. E.

90/ A/CONF.144/IPM.5.

"4. Also invites Member States to bring the Basic Principles to the attention of lawyers, judges, members of the executive branch of government and the legislature, and the public in general;

"5. Further invites Member States to inform the Secretary-General every five years, beginning in 1992, of the progress achieved in the implementation of the Basic Principles, including their dissemination, their incorporation into domestic legislation, practice, procedures and policies, the problems faced in their implementation at the national level and assistance that might be needed from the international community, and requests the Secretary-General to report thereon to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

"6. Appeals to all Governments to promote seminars and training courses at the national and regional levels on the role of lawyers and on respect for equality of conditions of access to the legal profession;

"7. Urges the regional commissions, the regional and interregional institutes in crime prevention and criminal justice, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to become actively involved in the implementation of the Basic Principles and to inform the Secretary-General of the efforts made to disseminate and implement the Basic Principles and the extent of their implementation, and requests the Secretary-General to include this information in his report to the Ninth Congress;

"8. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, ways and means of ensuring the effective implementation of this resolution;

"9. Requests the Secretary-General:

"(a) To take steps, as appropriate, to bring this resolution to the attention of Governments and all the United Nations bodies concerned and to provide for the widest possible dissemination of the Basic Principles;

"(b) To include the Basic Principles in the next edition of the United Nations publication entitled Human Rights: A Compilation of International Instruments;

"(c) To provide Governments, at their request, with the services of experts and regional and interregional advisers to assist in implementing the Basic Principles and to report to the Ninth Congress on the technical assistance and training actually provided;

"(d) To report to the Committee on Crime Prevention and Control, at its twelfth session, on the steps taken to implement the Basic Principles.

"Annex

"BASIC PRINCIPLES ON THE ROLE OF LAWYERS

"*Whereas* in the Charter of the United Nations the peoples of the world affirm, *inter alia*, their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language, or religion,

"*Whereas* the Universal Declaration of Human Rights [91] enshrines the principles of equality before the law, the presumption of innocence, the right to a fair and public hearing by an independent and impartial tribunal, and all the guarantees necessary for the defence of everyone charged with a penal offence,

"*Whereas* the International Covenant on Civil and Political Rights [92] proclaims, in addition, the right to be tried without undue delay and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

"*Whereas* the International Convenant on Economic, Social and Cultural Rights [92] recalls the obligation of States under the Charter to promote universal respect for, and observance of, human rights and freedoms,

"*Whereas* the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment [93] provides that a detained person shall be entitled to have the assistance of, and to communicate and consult with, legal counsel,

"*Whereas* the Standard Minimum Rules for the Treatment of Prisoners [94] recommend, in particular, that legal assistance and confidential communication with counsel should be ensured to untried prisoners,

"*Whereas* the Safeguards guaranteeing protection of those facing the death penalty [94] reaffirm the right of everyone suspected or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings, in accordance with article 14 of the International Covenant on Civil and Political Rights, [92]

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[91] General Assembly resolution 217 A (III).

[92] General Assembly resolution 2200 A (XXI), annex.

[93] General Assembly resolution 43/173, annex.

[94] See *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1), sect. G.

"Whereas the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 95/ recommends measures to be taken at the international and national levels to improve access to justice and fair treatment, restitution, compensation and assistance for victims of crime,

"Whereas adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession,

"Whereas professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and co-operating with governmental and other institutions in furthering the ends of justice and public interest,

"The Basic Principles on the Role of Lawyers, set forth below, which have been formulated to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general. These principles shall also apply, as appropriate, to persons who exercise the functions of lawyers without having the formal status of lawyers.

"Access to lawyers and legal services

"1. Everyone is entitled to call upon the assistance of a lawyer of his choice to protect and establish his rights and to defend him in all stages of criminal proceedings.

"2. Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status.

"3. Governments shall ensure the provision of sufficient funding and other resources for legal services to be provided to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall co-operate in the organization and provision of services, facilities and other resources.

"4. It is the responsibility of Governments and professional associations of lawyers to promote programmes aimed at informing the public about their rights and duties under the law and the important role of lawyers in protecting their fundamental freedoms. For this purpose, special attention should be given to assisting the poor and other disadvantaged persons so as to enable them to assert their rights and where necessary call upon the assistance of lawyers.

95/ General Assembly resolution 40/34, annex.

"Special safeguards in criminal justice matters

"5. It is the duty of Governments to ensure that everyone is immediately informed by the competent authority of his right to be assisted by a lawyer of his own choice at his arrest, detention or imprisonment or when he is charged with a criminal offence.

"6. Any such person who does not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to him in order to provide effective legal assistance, without payment by him if he lacks sufficient means to pay for such services.

"7. Governments shall further ensure that a person arrested, detained or imprisoned, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.

"8. An arrested, detained or imprisoned person shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.

"Qualifications and training

"9. Governments, professional associations of lawyers and educational institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law.

"10. It is the duty of Governments, professional associations of lawyers and educational institutions to ensure that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, political or other opinion, national or social origin, property, birth, economic or other status.

"11. In countries where there exist groups, communities or regions whose needs for legal services are not met, particularly where such groups have distinct cultures, traditions or languages or have been the victims of past discrimination, Governments, professional associations of lawyers and educational institutions should take special measures to provide opportunities for candidates from these groups to enter the legal profession and should ensure that they receive training appropriate to the needs of their groups.

"Duties and responsibilities

"12. Lawyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.

"13. The duties of a lawyer towards his or her client shall include:

"(a) Advising the client as to his or her legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the client;

"(b) Assisting the client in every appropriate way, and taking legal action to protect him or his interests;

"(c) Assisting the client before courts, tribunals or administrative authorities, where appropriate.

"14. Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

"15. A lawyer shall always loyally respect the interests of his client.

"Guarantees for the functioning of lawyers

"16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

"17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

"18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

"19. No court or administrative authority before whom the right of counsel is recognized shall refuse to recognize the right of a qualified lawyer to appear before it for his or her client unless that lawyer has been disqualified in accordance with national law and practice and in conformity with these principles.

"20. A lawyer shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in his professional appearances before a court, tribunal or other legal or administrative authority.

"21. It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients, and, in criminal proceedings, not later than at the conclusion of investigation or pre-trial proceedings.

"22. Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.

"Freedom of expression and association

"23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

"Professional associations of lawyers

"24. Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.

"25. Professional associations of lawyers shall co-operate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics.

"Disciplinary proceedings

"26. Codes of professional conduct for lawyers shall be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and custom and recognized international standards and norms.

"27. Charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice.

"28. Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review.

"29. All disciplinary proceedings shall be determined in accordance with the code of professional conduct and other recognized standards and ethics of the legal profession and in the light of these principles."

Decision 11/110. Prevention and control of organized crime*

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the guidelines for the prevention and control of organized crime (E/AC.57/1990/5/Add.3, draft resolution I, annex), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 5 (topic III) of its provisional agenda:

"Prevention and control of organized crime*

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recognizing that the growing threat of organized crime, with its highly destabilizing and corrupting influence on fundamental social, economic and political institutions, represents a challenge demanding accrued and more effective international co-operation,

"Recalling that the Milan Plan of Action, 96/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, recommended that it was imperative to launch a major effort to control and eventually eradicate the destructive phenomena of illicit drug traffic and abuse and of organized crime,

"Recalling also that the Seventh Congress, in its resolution 1, 97/ recommended that the Committee on Crime Prevention and Control should be requested to develop a comprehensive framework of guidelines and standards that would assist Governments in the development of measures to deal with organized crime at the national, regional and international levels,

"Recalling further that the General Assembly, in its resolution 40/32 of 29 November 1985, approved the Milan Plan of Action as a useful and effective means of strengthening international co-operation in the field of crime prevention and criminal justice, and endorsed the other resolutions adopted unanimously by the Seventh Congress,

"Noting that the General Assembly, in its resolutions 41/107, 42/59 and 43/99, of 4 December 1986, 30 November 1987 and 8 December 1988, respectively, as well as the Economic and Social Council, in its resolutions 1986/10 and 1987/53 of 21 May 1986 and 28 May 1987, respectively, urged Member States to accord priority, *inter alia*, to the implementation of the recommendations contained in the Milan Plan of Action,

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* For the discussion, see chap. IV.

96/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

97/ *Ibid.*, sect. E.

"Noting also that the Economic and Social Council, in its resolution 1989/70 of 24 May 1989, called upon Governments, international organizations and interested non-governmental organizations to co-operate with the Committee on Crime Prevention and Control in giving special attention to promoting international co-operation in combating organized crime,

"Noting further that the General Assembly, in its resolution 44/72 of 8 December 1989, reaffirmed the continued validity of the Milan Plan of Action and requested the Eighth Congress, *inter alia*, to propose viable control measures aimed at eradicating the activities of organized crime,

"1. *Adopts* the Guidelines contained in the annex to the present resolution as valuable recommendations for national and international action against organized crime;

"2. *Urges* Member States to give favourable consideration to their implementation at both national and international levels, as appropriate.

"Annex

"GUIDELINES FOR THE PREVENTION AND CONTROL OF ORGANIZED CRIME

"A. National measures

"Preventive strategies

"1. Raising public awareness and mobilizing public support are important elements of any preventive action. Education and promotional programmes and the process of public exposure have been successful in changing community attitudes and in enlisting public support. Measures of this kind can help to counter public revenue fraud and can be further developed and utilized on a systematic basis by targeting areas of special social and economic harm to the community and by enlisting the co-operation of the mass media in playing a positive role.

"2. Research into the structure of organized crime and the evaluation of the effectiveness of existing countermeasures should be encouraged, since it can contribute to the establishment of a more informed basis for prevention programmes. For example, research in relation to corruption, its causes, nature and effect, its links to organized crime and anti-corruption measures is a prerequisite to the development of preventive programmes.

"3. Possible devices to prevent or minimize the impact of organized crime should be continuously explored. While the whole question of crime prevention is an underdeveloped area in many countries, specific measures in a number of spheres have been effective. Detailed programmes that are designed to place obstacles in the way of a potential offender, reduce opportunities for crime and make its commission more conspicuous should be encouraged. Fraud control programmes represent a significant and positive step in this direction. Other measures include risk analysis to assess vulnerability to fraud, control strategies in relation to such areas as systems and procedures, management and the supervision of staff, physical security, information and intelligence, computers, investigative strategies and training programmes. The creation of anti-corruption agencies or similar mechanisms should also be pursued. Crime impact studies and the identification of criminogenic factors of new development programmes would provide opportunities for the adoption of remedial and preventive measures at the planning stage.

"4. Improvements in the efficiency of law enforcement and criminal justice are important preventive strategies based on more efficient and fair processes that act as a deterrent to crime and strengthen guarantees of human rights. Planning processes designed to integrate and co-ordinate relevant criminal justice agencies that often operate independently of each other, as stressed in the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 98/ will also serve as a deterrent to crime.

"5. Better training to upgrade skills and professional qualifications of law enforcement and judicial personnel should be undertaken to improve effectiveness, consistency and fairness in national criminal justice systems. Regional and joint training programmes should be developed in order to exchange information on successful techniques and new technology.

"6. The efforts of drug-producing countries aimed at the eradication of the illicit production and processing of drugs should be recognized and supported. In particular, developed countries should grant adequate technical and financial assistance for the implementation of crop substitution programmes. The latter should also increase their efforts to achieve a radical reduction in illicit drug demand and consumption within their national borders.

"Criminal legislation

"7. Legislation should be encouraged that defines new offences with respect to money laundering and organized fraud and the offence of opening and operating accounts under a false name. Computer crime is another area that requires consideration. In addition, there is a need for reform in civil, fiscal and regulatory legislation that relates to the control of organized crime. Information on significant innovations that have occurred in recent years should be widely shared through the United Nations, with a view to facilitating the development of a solid basis for the harmonization of criminal law dealing with organized crime.

"8. Forfeiture of the proceeds of crime represents one of the most significant recent developments. Important in this context are the following: provision for the freezing or withholding, and the confiscation or forfeiture, of property used in, or derived from, the commission of an offence; and orders for pecuniary penalties representing a court assessment of the monetary value of the benefit derived by the offender from the commission of the offence. Viable remedies that have been developed in several countries on those matters should be brought, in a systematic way, to the attention of other interested countries, with a view to their more widespread utilization.

98/ *Seventh United Nations Congress* ..., chap. I, sect. B.

"Criminal investigation

"9. Attention should be focused on new methods of criminal investigation and the techniques developed in various countries of 'following the money trail'. Important in this context are the following: orders requiring financial institutions to provide all the information necessary to follow the money trail, including details of accounts belonging to a particular person, and orders requesting them to report suspect transactions to the appropriate authorities. Banks and financial institutions should not resort to the principle of secrecy once there exists a judicial order issued by the competent judiciary authority.

"10. The use of telecommunications and electronic surveillance is also a relevant and effective procedure, subject to human rights considerations.

"11. Schemes for the protection of witnesses against violence and intimidation are becoming increasingly important in the criminal investigation and trial process and in enforcement efforts against organized crime. These procedures involve the provision of protected accommodation and physical protection, relocation, monetary support and a new identity for the witnesses.

"Law enforcement and criminal justice administration

"12. Law enforcement plays a crucial role in programmes against organized crime. It is important to ensure that law enforcement agencies have adequate powers, subject to proper human rights safeguards. Consideration should be given to the necessity of establishing a specialized interdisciplinary agency to deal specifically with organized crime.

"13. Major emphasis should also be placed on the application of technical and organizational measures designed to increase the effectiveness of the investigative and sentencing authorities, including prosecutors and the judiciary. Furthermore, courses on professional ethics should be incorporated into the curricula of law enforcement and judicial training institutions. Some of the instruments developed by the United Nations could be used for this purpose, such as the Basic Principles on the Independence of the Judiciary 99/ and the Code of Conduct for Law Enforcement Officials. 100/

"B. International co-operation

"14. The transnational dimensions of organized crime require the urgent development of new and effective co-operative arrangements on a more comprehensive basis. The exchange of information between relevant agencies of Member States is also an important activity that needs to be strengthened and developed further.

"15. Governments should vigorously support all initiatives by countries and international institutions to combat illicit drug-trafficking, and should warn others of the imminent danger represented by organized crime. All

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99/ *Ibid*, sect. D.

100/ General Assembly resolution 34/169, annex.

countries must be involved in combating illicit drug-trafficking on the basis of shared responsibility. In this respect, consistent and continuous global international interdiction efforts, combining the exchange of the necessary data and operational resources, should be encouraged and undertaken.

"16. Model legislation for the forfeiture of assets from illegally acquired property should be developed and implemented.

"17. Specific strategies and methods should be developed for erecting stronger barriers between legitimate financial markets and the market in illegally acquired capital, and co-operative arrangements applicable to offshore finance and to operations involving global electronic fund transfers should be devised, through the close co-ordination of the international organizations and agencies concerned.

"18. Technical co-operation in its various forms, with expanded advisory services, should be strengthened in order to share common experiences and innovations and to assist countries in need. International, regional and subregional conferences bringing together members of the law enforcement, prosecution and judicial authorities should be encouraged.

"19. Modern technological advances should be used in the area of passport and travel controls, and efforts should be encouraged to monitor and identify cars, boats and aircraft used in transnational theft or transfer, or for illicit trans-shipments.

"20. Secure global, regional and national data bases containing law enforcement, financial and offenders' records should be established or expanded.

"21. Mutual assistance, the transfer of criminal proceedings and the enforcement of criminal judgements, including confiscation and forfeiture of illegal assets, as well as extradition procedures, should receive priority attention.

"22. Comparative research and data collection related to issues of transnational organized crime, its causes, its links to domestic instability and other forms of criminality, as well as its prevention and control, should be supported.

"23. The United Nations regional and interregional institutes for crime prevention and control and the intergovernmental and non-governmental organizations concerned should give increased attention to the issue of organized crime.

"24. The United Nations Development Programme and other funding agencies of the United Nations system, as well as Member States, should be urged to strengthen their support for national, regional and international programmes addressed to the prevention and control of organized crime."

Decision 11/111. Terrorist criminal activities*

At its 11th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed measures against international terrorism (E/AC.57/1990/5/Add.3, draft resolution II), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 5 (topic III) of its provisional agenda:

"Terrorist criminal activities

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Aware of the grave menace that national and international terrorist criminal activities pose to social and political stability and to the lives of countless human beings,

"Concerned by the rapid internationalization of these criminal operations,

"Convinced that the trend towards the internationalization of terrorist activities makes imperative a corresponding internationally co-ordinated response of global dimensions,

"Recalling that in the Milan Plan of Action 101/ the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders affirmed that priority must be given to combating terrorism in all its forms including, when appropriate, co-ordinated and concerted action by the international community,

"Recalling also that the Seventh Congress, in its resolution 23, 102/ requested that the Committee on Crime Prevention and Control should consider the development of recommendations for international action to strengthen law enforcement measures, including extradition procedures and other arrangements for legal assistance and co-operation, with respect to offences of a terrorist nature,

"Noting that the General Assembly, in its resolution 40/32 of 29 November 1985, approved the Milan Plan of Action as a useful and effective means of strengthening international co-operation in the field of crime prevention and criminal justice, and endorsed the other resolutions adopted unanimously by the Seventh Congress,

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* For the discussion, see chap. IV.

101/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

102/ Ibid., sect. E.

"*Noting further* that the General Assembly, in its resolutions 41/107, 42/59 and 43/99 of 4 December 1986, 30 November 1987 and 8 December 1988, respectively, as well as the Economic and Social Council, in its resolutions 1986/10 and 1987/53 of 21 May 1986 and 28 May 1987, respectively, urged Member States to accord priority, *inter alia*, to the implementation of the recommendations contained in the Milan Plan of Action,

"*Aware* that the General Assembly, in its resolution 44/72 of 8 December 1989, reaffirmed the continued validity of the Milan Plan of Action and requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, *inter alia*, to propose viable control measures for combating terrorist criminal activities,

"*Recalling further* the concern about, and condemnation of, terrorism expressed by the General Assembly in its resolutions 3034 (XXVII), 31/102, 32/147, 34/145, 36/109, 38/130, 40/61, 42/59 and 44/29 of 18 September 1972, 15 December 1976, 16 December 1977, 17 December 1979, 10 December 1981, 19 December 1983, 9 December 1985, 30 November 1987 and 4 December 1989, respectively,

"1. *Adopts* the recommendations contained in the annex to the present resolution as a set of valuable measures for national and international concerted action against international terrorism;

"2. *Urges* Member States to give favourable consideration to the implementation of these recommendations at both the national and the international level.

"*Annex*

"MEASURES AGAINST INTERNATIONAL TERRORISM

"A. *Definition*

"1. Since the first study [103] of international terrorism was conducted by the United Nations in 1972, the international community has been unable to arrive at a universally agreed meaning of what is included in the term 'international terrorism'. Nor has it reached sufficient general agreement on the measures needed to prevent and control the harmful manifestations of acts of terrorist violence.

"2. The need to have a specific definition of international terrorism is, however, of questionable value for the prevention and control of the manifestations of the phenomenon. A preferred approach is to identify conduct that the international community deems unacceptable. and that it agrees to prevent and control by developing effective means for the implementation and enforcement of measures, in accordance with established principles of international law. Consequently, instead of attempting to define the phenomenon in an abstract way, a list of concrete activities or actions that the international community considers unacceptable and that are, therefore, considered as terrorist conduct should be compiled.

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[103] "Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes: Study prepared by the Secretariat in accordance with the decision taken by the Sixth Committee at its 1314th meeting, on 27 September 1972" (A/C.6/418).

"3. Furthermore, the international community should understand better the underlying causes that bring about such conduct in order to develop measures for its prevention and control.

"B. Identification of the problems

"4. Existing international norms may not in certain areas be sufficient to control all forms and manifestations of terrorist violence. The following issues are of particular concern: the absence of a clear definition of victims of terrorism; the limits of the use of force in connection with wars of national liberation and conflicts of a non-international character; the limits of the use of force by States in response to what they may perceive as constituting acts of terrorist violence; State policies and practices that may be considered by other States as constituting a violation of international treaty obligations; the absence of specific norms on State responsibility regarding the failure to carry out existing international obligations; the abuse of the privilege of diplomatic immunity and the diplomatic pouch; the absence of norms concerning the responsibility of States for acts not prohibited by international law; the absence of international regulation and control of the traffic and trade in arms; the inadequacy of international mechanisms for the peaceful resolution of conflicts and for the enforcement of internationally protected human rights; the lack of universal acceptance of the principle of aut dedere aut iudicare; and the shortcomings of international co-operation in the effective and uniform prevention and control of all forms and manifestations of terrorist violence.

"C. International co-operation for the effective and uniform prevention and control of terrorism

"5. Effective measures for international co-operation in the prevention of terrorist violence should be developed at the international, regional and bilateral levels. These include: co-operation between law enforcement agencies, prosecution authorities and the judiciary; increasing integration and co-operation within the various agencies responsible for law enforcement and criminal justice, with due regard to fundamental human rights; inclusion of modalities of inter-State co-operation in penal matters at all levels of enforcement and criminal justice; increasing education and training of law enforcement personnel with regard to crime prevention and modalities of international co-operation in penal matters, including the development of specialized courses on international criminal law and comparative penal law and procedures, as a part of legal education as well as professional and judicial training; and the development of both general educational and public awareness programmes through the mass media in order to enlighten the public on the dangers of terrorist violence.

"D. Jurisdiction

"6. Greater uniformity in the laws and practices of States concerning both criminal and extraterritorial jurisdiction should be encouraged, while over-extension of territorial jurisdiction should be avoided in order to prevent unnecessary legal conflicts between States.

"7. Jurisdictional priorities should be established giving territoriality the first priority, followed by other principles in accordance with existing international law.

"E. Extradition

"8. Extradition should be facilitated as one of the most effective procedures for implementing the principle of aut dedere aut iudicare, and States should endeavour to develop and implement effectively international extradition treaties, be they part of multilateral conventions, regional conventions or bilateral agreements.

"9. The political offence exception should not be a bar to extradition for crimes of terrorist violence under existing international conventions, except in cases when the requested State decides to undertake prosecution of the requested person or to transfer the proceedings to another State to conduct the prosecution.

"10. States are encouraged to rely on existing extradition provisions in multilateral treaties whenever there is an absence of bilateral treaties.

"11. In view of the increasing number of multilateral and bilateral treaties, the efforts of the United Nations to elaborate a model treaty on extradition constitute a useful beginning. In addition, the United Nations could also consider elaborating a multilateral convention on extradition to remove gaps and loopholes in existing treaties and current extradition procedures.

"12. Lawful alternatives to extradition, such as deportation or voluntary return subject to appropriate judicial guarantees, should be encouraged.

"F. Mutual assistance and co-operation

"13. The prevention and control of terrorist violence depends on effective mutual co-operation and assistance between States in securing evidence with respect to the prosecution or extradition of the offenders.

"14. States are encouraged to lend each other the widest possible mutual assistance and co-operation in penal matters, subject to respect for internationally recognized human rights, and to rely on the provisions of multilateral treaties and specific regional and bilateral agreements. To achieve this end, the model treaty on mutual assistance in criminal matters constitutes a basis for strengthened international co-operation.

"G. Non-applicability of defence

"15. Defence based on obedience to superior orders, or acts of State, or immunities granted for the commission of the crime shall not apply with respect to persons who have violated international conventions prohibiting acts of terrorist violence.

"H. Conduct of States

"16. Resort to terrorist violence by States that by their conduct violate international law should be more effectively curbed by the international community, and the United Nations should develop mechanisms for the control of such conduct, particularly through the strengthening of United Nations machinery for the preservation of peace and security and the protection of human rights.

"17. Measures by the international community to curb terrorism that is supported, carried out or acquiesced in by States should be encouraged.

"I. Targets of high vulnerability

"18. A study concerning the development of a new international convention that would enhance the protection of targets that are particularly vulnerable, the destruction of which would cause great harm to populations or cause severe damage to society, such as hydroelectricity or nuclear facilities, should be undertaken.

"19. The United Nations, in co-operation with the specialized agencies concerned, should convene a conference of experts to identify such highly vulnerable targets and to develop appropriate measures for their protection. The United Nations should assist any country that suffers from terrorism or from the presence of terrorist organizations on its territory to put an end to that phenomenon.

"J. Control of weapons, ammunition and explosives

"20. States should develop appropriate national legislation for the effective control of weapons, ammunition and explosives and other dangerous materials that find their way into the hands of persons who could use them for the purposes of terrorism.

"21. International regulations on the transfer, import, export and storage of such objects should be developed so that customs and border controls can be harmonized to prevent their transnational movement, except for established lawful purposes.

"K. Protection of the judiciary and of criminal justice personnel

"22. States should adopt measures and policies aimed at the effective protection of the judiciary and of criminal justice personnel, including jurors and lawyers involved in trials of terrorism cases, and should also co-operate between themselves in the implementation of such measures.

"L. Protection of victims

"23. States should establish appropriate mechanisms for the protection, and introduce relevant legislation for the assistance, of victims of terrorism, in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. [104]

"24. International norms concerning the subject referred to in the previous paragraph should also be elaborated.

"M. Protection of witnesses

"25. States should adopt measures and policies aimed at the effective protection of witnesses of terrorist acts.

"26. States with experience in the field of witness protection programmes should consider lending assistance to other States contemplating similar programmes.

"N. Treatment of offenders

"27. Among the aims of criminal law are deterrence, prevention and the resocialization of offenders, but such aims can seldom be achieved with respect to ideologically motivated offenders. It is therefore recommended that studies should be undertaken concerning the treatment of such offenders, that programmes should be designed for them during their imprisonment, and that alternative measures of correction and programmes oriented to social defence should be developed.

"28. Consideration should be given to the establishment of a uniform standard of penalties to be imposed on terrorists in different countries in order to eliminate significant disparities.

"29. Such offenders must be treated without discrimination and in accordance with internationally recognized human rights standards and norms, as enunciated in the Universal Declaration of Human Rights, [105] the International Covenant on Civil and Political Rights, [106] the Slavery Convention, [107] the Supplementary Convention on the Abolition of Slavery, the

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[104] Seventh United Nations Congress ..., chap. I, sect. C.

[105] General Assembly resolution 217 A (III).

[106] General Assembly resolution 2200 A (XXI), annex.

[107] General Assembly resolution 794 (VIII).

Slave Trade, and Institutions and Practices Similar to Slavery, 108/ the Abolition of Forced Labour Convention, 108/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 109/ and the Standard Minimum Rules for the Treatment of Prisoners. 110/

"O. Role of the mass media

"30. States should consider the development of guidelines for the mass media or encourage the establishment of voluntary guidelines to control the following: sensationalizing and justifying terrorist violence; disseminating strategic information on potential targets; and disseminating tactical information while terrorist acts are taking place, thereby possibly endangering the lives of innocent civilians and law enforcement personnel or impeding effective law enforcement measures to prevent or control such acts and to apprehend the offenders. These guidelines are in no way intended to restrict the internationally recognized basic human right of freedom of speech and information or to encourage interference in the domestic affairs of other States.

"P. Codification of international criminal law and creation of an international criminal court

"31. International criminal law should be codified and the work of the International Law Commission on various aspects of codification should be encouraged, in co-operation with the Committee on Crime Prevention and Control.

"32. The possibility of establishing a special penal jurisdiction within the International Court of Justice, or a separate international criminal court, should be considered. Such drafts as the 1951 and 1953 draft statutes for the establishment of an international criminal court and the 1980 draft statute for the establishment of an international jurisdiction to implement the International Convention on the Suppression and Punishment of the Crime of *Apartheid* 111/ should be considered. Also, the United Nations should encourage States to explore seriously the possibility of establishing such an international court under the auspices of the Organization, in which grave international crimes, and particularly terrorism, could be brought to trial. This goal could be achieved by the application of the principle of universal jurisdiction to certain particularly harmful and/or hideous crimes.

108/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. F.

109/ General Assembly resolution 39/46, annex.

110/ Human Rights: A Compilation ..., sect. G.

111/ General Assembly resolution 3068 (XXVIII), annex.

"Q. Enhancing the effectiveness of international co-operation

"33. The United Nations, in co-operation with specialized agencies such as the International Civil Aviation Organization, the International Maritime Organization, and the International Atomic Energy Agency, should prepare annual reports on compliance with existing international conventions, including detailed reporting on incidents and cases (arrest, prosecution, adjudication and sentencing), to be made available for international circulation.

"34. States that are signatories to international conventions prohibiting terrorist violence are urged to ratify those conventions at the earliest opportunity and to take effective measures to enforce their provisions.

"35. States that are not signatories to international conventions prohibiting terrorist violence are urged to accede to such conventions at the earliest opportunity and to take effective measures to enforce their provisions.

"36. States are urged to sign and ratify the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, adopted by the conference of the International Maritime Organization, held at Rome in 1988, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted by the International Conference on Air Law, which was convened by the International Civil Aviation Organization at Montreal, from 9 to 24 February 1988.

"37. The United Nations should develop ways and means of encouraging prevention policies, strategies and action by States to ensure the effective implementation of international conventions, including enhanced co-operation at the law enforcement, prosecution and judicial levels.

"38. A system of reporting and monitoring acts of terrorist violence and the responses of States should be developed within the United Nations, and annual reports should be made and widely circulated to Member States.

"39. The central role of the United Nations, and in particular of the Crime Prevention and Criminal Justice Branch, Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna, should be strengthened in order to fulfil the above-mentioned objectives and other purposes of the Organization, including the preservation of peace, the strengthening of world order and the fight against crime under the rule of law."

Decision 11/112. Model treaty on mutual assistance in criminal matters*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the model treaty on mutual assistance in criminal matters (E/AC.57/1990/5/Add.3, draft resolution III), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 5 (topic III) of its provisional agenda:

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* For the discussion, see chap. IV.

"Model Treaty on Mutual Assistance in Criminal Matters

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Bearing in mind the Milan Plan of Action, 112/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in its resolution 40/32 of 29 November 1985,

"Bearing in mind also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 113/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

"Recalling resolution 1 of the Seventh Congress 114/ on organized crime, in which Member States were urged, inter alia, to increase their activity at the international level in order to combat organized crime, including, as appropriate, entering into bilateral treaties on extradition and mutual legal assistance,

"Recalling also resolution 23 of the Seventh Congress 114/ on criminal acts of a terrorist character, in which all States were called upon to take steps to strengthen co-operation particularly, inter alia, in the area of mutual assistance,

"Recalling further the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 115/

"Acknowledging the valuable contributions to the model treaty on mutual assistance in criminal matters that Governments, non-governmental organizations and individual experts have made, in particular the Government of Australia and the International Association of Penal Law,

"Gravely concerned by the escalation of crime, both national and transnational,

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112/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

113/ Ibid., sect. B.

114/ Ibid., sect. E.

115/ E/CONF.82/15 and Corr.2.

"Convinced that the establishment of bilateral and multilateral arrangements for mutual assistance in criminal matters will greatly contribute to developing more effective international co-operation for the control of criminality,

"Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 116/ and the International Covenant on Civil and Political Rights, 117/

"Recognizing the importance of the model treaty on mutual assistance in criminal matters as an effective way of dealing with the complex aspects and serious consequences of crime, especially in its new forms and dimensions,

"1. Adopts the Model Treaty on Mutual Assistance in Criminal Matters together with its Optional Protocol, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral agreements aimed at improving co-operation in matters of crime prevention and criminal justice;

"2. Invites Member States, if they have not yet established treaty relations with other States in the matter of mutual assistance in criminal matters, or if they wish to revise existing treaty relations, to take into account, whenever doing so, the Model Treaty on Mutual Assistance in Criminal Matters;

"3. Urges all States to strengthen international co-operation and mutual assistance further in criminal justice;

"4. Requests the Secretary-General to bring the present resolution, with the Model Treaty, to the attention of Governments;

"5. Also urges Member States to inform the Secretary-General periodically of efforts undertaken to establish mutual assistance arrangements in criminal matters;

"6. Requests the Committee on Crime Prevention and Control to review periodically the progress attained in this field.

"Annex

"MODEL TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

"The ______________________ and the ______________________

"Desirous of extending to each other the widest measure of co-operation to combat crime,

"Have agreed as follows:

116/ General Assembly resolution 217 A (III).

117/ General Assembly resolution 2200 A (XXI), annex.

"ARTICLE 1

"Scope of application 118/

"1. The Parties shall, in accordance with this Treaty, afford to each other the widest possible measure of mutual assistance in investigations or court proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the Requesting State.

"2. Mutual assistance to be afforded in accordance with this Treaty may include:

"(a) Taking evidence or statements from persons;

"(b) Assisting in the availability of detained persons or others to give evidence or assist in investigations;

"(c) Effecting service of judicial documents;

"(d) Executing searches and seizures;

"(e) Examining objects and sites;

"(f) Providing information and evidentiary items;

"(g) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records.

"3. This Treaty does not apply to:

"(a) The arrest or detention of any person with a view to the extradition of that person;

"(b) The enforcement in the Requested State of criminal judgements imposed in the Requesting State except to the extent permitted by the law of the Requested State and the Optional Protocol to this Treaty;

"(c) The transfer of persons in custody to serve sentences;

"(d) The transfer of proceedings in criminal matters.

118/ Additions to the scope of assistance to be provided can be considered bilaterally, such as provisions covering information on sentences passed on nationals of the Parties. Obviously, such assistance must be compatible with the law of the Requested State.

"ARTICLE 2

"Other arrangements 119/

"Unless the Parties decide otherwise, this Treaty shall not affect obligations subsisting between them whether pursuant to other treaties or arrangements or otherwise.

"ARTICLE 3

"Designation of competent authorities

"Each Party shall designate and indicate to the other Party an authority or authorities by or through which requests for the purpose of this Treaty should be made or received.

"ARTICLE 4

"Refusal of assistance 120/

"1. Assistance may be refused if: 121/

"(a) The Requested State is of the opinion that the request, if granted, would prejudice its sovereignty, security, public order (ordre public) or other essential public interests;

"(b) The offence is regarded by the Requested State as being of a political nature;

"(c) There are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions or that that person's position may be prejudiced for any of those reasons;

119/ This article recognizes the continuing role of informal assistance between law enforcement agencies and associated agencies in different countries.

120/ This article provides an illustrative list of the grounds for refusal.

121/ Some countries may wish to delete or modify some of the provisions or include other grounds for refusal, such as those related to the nature of the offence (e.g. fiscal), the nature of the applicable penalty (e.g. capital punishment), requirements of shared concepts (e.g. double jurisdiction, no lapse of time) or specific kinds of assistance (e.g. interception of telecommunications, performing deoxyribonucleic-acid (DNA) tests). In particular, some countries may wish to include as a grounds for refusal the fact that the act on which the request is based would not be an offence if committed in the territory of the Requested State (dual criminality).

"(d) The request relates to an offence that is subject to investigation or prosecution in the Requested State or the prosecution of which in the Requesting State would be incompatible with the Requested State's law on double jeopardy (ne bis in idem);

"(e) The assistance requested requires the Requested State to carry out compulsory measures that are inconsistent with its law and practice had the offence been the subject of investigation or prosecution under its own jurisdiction;

"(f) The act is an offence under military law, which is not also an offence under ordinary criminal law.

"2. Assistance shall not be refused solely on the ground of secrecy of banks and similar financial institutions.

"3. The Requested State may postpone the execution of the request if its immediate execution would interfere with an ongoing investigation or prosecution in the Requested State.

"4. Before refusing a request or postponing its execution, the Requested State shall consider whether assistance may be granted subject to certain conditions. If the Requesting State accepts assistance subject to these conditions, it shall comply with them.

"5. Reasons shall be given for any refusal or postponement of mutual assistance.

"ARTICLE 5

"Contents of requests [122]

"1. Requests for assistance shall include:

"(a) The name of the requesting office and the competent authority conducting the investigation or court proceedings to which the request relates;

"(b) The purpose of the request and a brief description of the assistance sought;

"(c) A description of the facts alleged to constitute the offence and a statement or text of the relevant laws, except in cases of a request for service of documents;

"(d) The name and address of the person to be served, where necessary;

"(e) The reasons for and details of any particular procedure or requirement that the Requesting State wishes to be followed, including a statement as to whether sworn or affirmed evidence or statements are required;

122/ This list can be reduced or expanded in bilateral negotiations.

"(f) Specification of any time-limit within which compliance with the request is desired;

"(g) Such other information as is necessary for the proper execution of the request.

"2. Requests, supporting documents and other communications made pursuant to this Treaty shall be accompanied by a translation into the language of the Requested State or another language acceptable to that State.

"3. If the Requested State considers that the information contained in the request is not sufficient to enable the request to be dealt with, it may request additional information.

"ARTICLE 6

"Execution of requests [123]

"Subject to article 19, requests for assistance shall be carried out promptly, in the manner provided for by the law and practice of the Requested State. To the extent consistent with its law and practice, the Requested State shall carry out the request in the manner specified by the Requesting State.

"ARTICLE 7

"Return of material to the Requested State

"Any property, as well as original records or documents, handed over to the Requesting State under this Treaty shall be returned to the Requested State as soon as possible unless the latter waives its right of return thereof.

"ARTICLE 8

"Limitation on use [124]

"The Requesting State shall not, without the consent of the Requested State, use or transfer information or evidence provided by the Requested State for investigations or proceedings other than those stated in the request. However, in cases where the charge is altered, the material provided may be used in so far as the offence, as charged, is an offence in respect of which mutual assistance could be provided under this Treaty.

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[123] More detailed provisions may be included concerning the provision of information on the time and place of execution of the request and requiring the Requested State to inform promptly the Requesting State in cases where significant delay is likely to occur or where a decision is made not to comply with the request and the reasons for refusal.

[124] Some countries may wish to omit this article or modify it, e.g. restrict it to fiscal offences.

"ARTICLE 9

"Protection of confidentiality 125/

"Upon request:

"(a) The Requested State shall use its best endeavours to keep confidential the request for assistance, its contents and its supporting documents as well as the fact of granting of such assistance. If the request cannot be executed without breaching confidentiality, the Requested State shall so inform the Requesting State, which shall then determine whether the request should nevertheless be executed;

"(b) The Requesting State shall keep confidential evidence and information provided by the Requested State, except to the extent that the evidence and information is needed for the investigation and proceedings described in the request.

"ARTICLE 10

"Service of documents 126/

"1. The Requested State shall effect service of documents that are transmitted to it for this purpose by the Requesting State.

125/ Provisions relating to confidentiality will be important for many countries but may present problems to others. The nature of the provisions in individual treaties can be determined in bilateral negotiations.

126/ More detailed provisions relating to the service of documents, such as writs and judicial verdicts, can be determined bilaterally. Provisions may be desired providing for service of documents by mail or other manner, and providing for the forwarding of proof of service of the documents. For example, proof of service could be given by means of a receipt dated and signed by the person served or by means of a declaration made by the Requested State that service has been effected and stating the form and date of such service. One or other of these documents could be sent promptly to the Requesting State. The Requested State could, if the Requesting State so requests, state whether service has been effected in accordance with the law of the Requested State. If service could not be effected, the reasons could be communicated promptly by the Requested State to the Requesting State.

"2. A request to effect service of summonses shall be made to a Requested State not less than ... 127/ days before the date on which the appearance of a person is required. In urgent cases, the Requested State may waive the time requirement.

"ARTICLE 11

"Obtaining of evidence 128/

"1. The Requested State shall, in conformity with its law and upon request, take the sworn or affirmed testimony, or otherwise obtain statements of persons or require them to produce items of evidence for transmission to the Requesting State.

"2. Upon request of the Requesting State, the parties to the relevant proceedings in the Requesting State, their legal representatives and representatives of the Requesting State may, subject to the laws and procedures of the Requested State, be present at the proceedings.

"ARTICLE 12

"Right or obligation to decline to give evidence

"1. A person who is required to give evidence in the Requested or Requesting State may decline to give evidence where either:

127/ Depending on travel distance and related arrangements.

128/ This article is concerned with the obtaining of evidence in judicial proceedings, the taking of a statement of a person by a less formal process and the production of items of evidence.

"(a) The law of the Requested State permits or requires that person to decline to give evidence in similar circumstances in proceedings originating in the Requested State; or

"(b) The law of the Requesting State permits or requires that person to decline to give evidence in similar circumstances in proceedings originating in the Requesting State.

"2. If a person claims that there is a right or obligation to decline to give evidence under the law of the other State, the State where that person is present shall, with respect thereto, rely on a certificate of the competent authority of the other State as evidence of the existence or non-existence of that right or obligation.

"ARTICLE 13

"Availability of persons in custody to give evidence or to assist in investigations [129]

"1. Upon request of the Requesting State, and if the Requested State agrees and its law so permits, a person in custody in the latter State may, subject to his or her consent, be temporarily transferred to the Requesting State to give evidence or to assist in the investigations.

"2. While the person transferred is required to be held in custody under the law of the Requested State, the Requesting State shall hold that person in custody and shall return that person in custody to the Requested State at the conclusion of the matter in relation to which transfer was sought or at such earlier time as the person's presence is no longer required.

"3. Where the Requested State advises the Requesting State that the transferred person is no longer required to be held in custody, that person shall be set at liberty and be treated as a person referred to in article 14.

"ARTICLE 14

"Availability of other persons to give evidence or assist in investigations [130]

"1. The Requesting State may request the assistance of the Requested State in inviting a person:

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[129] In bilateral negotiations, provisions may also be introduced dealing with such matters as the modalities and time of restitution of evidence and the setting of a time-limit for the presence of the person in custody in the Requesting State.

[130] Provisions relating to the payment of the expenses of the person providing assistance are contained in paragraph 29. Additional details, such as provision for the payment of costs in advance, can be the subject of bilateral negotiations.

"(a) To appear in proceedings in relation to a criminal matter in the Requesting State unless that person is the person charged; or

"(b) To assist in the investigations in relation to a criminal matter in the Requesting State.

"2. The Requested State shall invite the person to appear as a witness or expert in proceedings or to assist in the investigations. Where appropriate, the Requested State shall satisfy itself that satisfactory arrangements have been made for the person's safety.

"3. The request or the summons shall indicate the approximate allowances and the travel and subsistence expenses payable by the Requesting State.

"4. Upon request, the Requested State may grant the person an advance, which shall be refunded by the Requesting State.

"ARTICLE 15

"Safe conduct 131/

"1. Subject to paragraph 32, where a person is in the Requesting State pursuant to a request made under articles 13 or 14:

"(a) That person shall not be detained, prosecuted, punished or subjected to any other restrictions of personal liberty in the Requesting State in respect of any acts or omissions or convictions that preceded the person's departure from the Requested State;

"(b) That person shall not, without that person's consent, be required to give evidence in any proceeding or to assist in any investigation other than the proceeding or investigation to which the request relates.

"2. Paragraph 31 of this article shall cease to apply if that person, being free to leave, has not left the Requesting State within a period of [15] consecutive days, or any longer period otherwise agreed on by the Parties, after that person has been officially told or notified that his or her presence is no longer required or, having left, has voluntarily returned.

"3. A person who does not consent to a request pursuant to article 13 or accept an invitation pursuant to article 14 shall not, by reason thereof, be liable to any penalty or be subjected to any coercive measure, notwithstanding any contrary statement in the request or summons.

131/ These provisions may be required as the only way of securing important evidence in proceedings involving serious national and transnational crime. However, as they may raise difficulties for some countries, the precise content of the article, including any additions or modifications, can be determined in bilateral negotiations.

"ARTICLE 16

"Provision of publicly available documents and other records [132]

"1. The Requested State shall provide copies of documents and records in so far as they are open to public access as part of a public register or otherwise, or in so far as they are available for purchase or inspection by the public.

"2. The Requested State may provide copies of any other document or record under the same conditions as such document or record may be provided to its own law enforcement and judicial authorities.

"ARTICLE 17

"Search and seizure [133]

"The Requested State shall, in so far as its law permits, carry out requests for search and seizure and delivery of any material to the Requesting State for evidentiary purposes, provided that the rights of *bona fide* third parties are protected.

"ARTICLE 18

"Certification and authentication [134]

"A request for assistance and the supporting documents thereto, as well as documents or other material supplied in response to such a request, shall not require certification or authentication.

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[132] The question may arise whether this should be discretionary. This provision can be the subject of bilateral negotiations.

[133] Bilateral arrangements may cover the provision of information on the results of search and seizure and the observance of conditions imposed in relation to the delivery of seized property.

[134] The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts, and, therefore, would require a clause setting out the authentication required.

"ARTICLE 19

"Costs 135/

"The ordinary costs of executing a request shall be borne by the Requested State, unless otherwise determined by the Parties. If expenses of a substantial or extraordinary nature are or will be required to execute the request, the Parties shall consult in advance to determine the terms and conditions under which the request shall be executed as well as the manner in which the costs shall be borne.

"ARTICLE 20

"Consultation

"The Parties shall consult promptly, at the request of either, concerning the interpretation, the application or the carrying out of this Treaty either generally or in relation to a particular case.

"ARTICLE 21

"Final provisions

"1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

"2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.

"3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

"4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

135/ More detailed provisions may be included, for example, the Requested State would meet the ordinary cost of fulfilling the request for assistance except that the Requesting State would bear (a) the exceptional or extraordinary expenses required to fulfil the request, where required by the Requested State and subject to previous consultations; (b) the expenses associated with conveying any person to or from the territory of the Requested State, and any fees, allowances or expenses payable to that person while in the Requesting State pursuant to a request under articles 11, 13 or 14, paragraphs 29 and 30; and (c) the expenses associated with conveying custodial or escorting officers; (d) the expenses involved in reports of experts.

"In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

________________________________ ________________________________

Done at ______________ on ______________ in the ________________________
and _______________ languages (both) texts being equally authentic."
(all)

"OPTIONAL PROTOCOL TO THE MODEL TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS CONCERNING THE PROCEEDS OF CRIME [136]

"1. In this Protocol 'proceeds of crime' means any property suspected, or found by a court, to be property directly or indirectly derived or realized as a result of the commission of an offence or to represent the value of property and other benefits derived from the commission of an offence.

"2. The Requested State shall, upon request, endeavour to ascertain whether any proceeds of the crime alleged are located within its jurisdiction and shall notify the Requesting State of the results of its inquiries. In making the request, the Requesting State shall notify the Requested State of the basis of its belief that such proceeds may be located within its jurisdiction.

"3. In pursuance of a request made under paragraph 2 of this Protocol, the Requested State shall endeavour to trace assets, investigate financial dealings, and obtain other information or evidence that may help to secure the recovery of proceeds of crime.

"4. Where, pursuant to paragraph 2 of this Protocol, suspected proceeds of crime are found, the Requested State shall upon request take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a court of the Requesting State.

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[136] This Optional Protocol is included on the ground that questions of forfeiture are conceptually different from, although closely related to, matters generally accepted as falling within the description of mutual assistance. However, States may wish to include these provisions in the text because of their importance in dealing with organized crime. Moreover, assistance in forfeiting the proceeds of crime has now emerged as a new instrument in international co-operation. Provisions similar to those outlined in the Optional Protocol appear in many bilateral assistance treaties. Further details can be provided in bilateral arrangements. One matter that could be considered is the need for other provisions dealing with issues related to bank secrecy. An addition could, for example, be made to paragraph 4 providing that the Requested State shall, upon request, take such measures as are permitted by its law to require compliance with monitoring orders by financial institutions. Provision could be made for the sharing of the proceeds of crime between the Contracting States or for consideration of the disposal of the proceeds on a case-by-case basis.

"5. The Requested State shall, to the extent permitted by its law, give effect to or permit enforcement of a final order forfeiting or confiscating the proceeds of crime made by a court of the Requesting State or take other appropriate action to secure the proceeds following a request by the Requesting State. 137/

"6. The Parties shall ensure that the rights of bona fide third parties shall be respected in the application of this Protocol.

"In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

______________________________ ______________________________

Done at ____________ on ____________ in the ____________________
and ____________ languages (both) texts being equally authentic."
(all)

Decision 11/113. Protection of the human rights of victims of crime and abuse of power*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 7 (topic V) of its provisional agenda:

"Protection of the human rights of victims of crime and abuse of power

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Concerned that crime and victimization continue to pose serious problems, affecting both individuals and entire groups and often transcending national frontiers,

"Emphasizing the need for preventive action and measures for the fair and humane treatment of victims, whose needs have often been ignored,

"Recognizing the importance of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 138/ which provides standards and guidelines for redress and assistance to such victims and which needs to be widely disseminated and applied in practice,

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* For the discussion, see chap. IV.

137/ The Parties might consider widening the scope of the Optional Protocol by the inclusion of references to victims' restitution and the recovery of fines imposed as a sentence in a criminal prosecution.

138/ General Assembly resolution 40/34, annex.

"Welcoming the efforts made to date to develop appropriate means for the implementation of the Declaration, and to further its application at the national, regional and international levels,

"Stressing the need for social solidarity, which requires the establishment of close links between members of society to guarantee social peace and respect for the rights of victims, as well as the need to provide adequate mechanisms and measures through which redress and assistance for victims can be provided nationally, regionally and internationally,

"Considering the key role of law enforcement agencies, prosecutors, lawyers and the judiciary in the implementation of the Declaration,

"Bearing in mind the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly in resolution 39/46 of 10 December 1984,

"Bearing in mind also the work being carried out by the Committee on Crime Prevention and Control,

"Recalling the Cairo Declaration on Law Enforcement and the Human Rights of Victims, adopted by the International Symposium held at Cairo from 22 to 25 January 1989,

"Recalling also the report prepared by the *ad hoc* committee of experts at the International Institute of Higher Studies in Criminal Sciences, held at Syracuse, Italy in May 1986, as revised by a colloquium of leading non-governmental organizations active in crime prevention, criminal justice and the treatment of offenders and victims, held at Milan, Italy, in November-December 1987,

"1. Takes note with appreciation of Economic and Social Council resolution 1989/57 of 24 May 1989,

"2. Recommends that, in the implementation of the said resolution, the Committee on Crime Prevention and Control should take into account the important proposals already made by the community of concerned non-governmental organizations;

"3. Calls upon States to take into account the provisions of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in framing their national legislation;

"4. Recommends that Governments should consider the availability of public and social support services for victims of crime and abuse of power and foster culturally appropriate programmes for victim assistance, information and compensation;

"5. Invites Governments to establish and contribute to an international fund, within the framework of the United Nations crime prevention and criminal justice programme, for the compensation of, and assistance to, victims of transnational crimes and abuse of power, whether individual or collective, and for the promotion of international research, data collection and dissemination and the establishment of policy guidelines in this respect;

"6. Recommends that States should prepare training programmes based on the principles of the Declaration, aimed at defining and disseminating the rights of victims of crime and abuse of power, which should be part of the curricula of faculties of law, criminological institutes, law enforcement training centres and judicial colleges;

"7. Calls upon States to exchange, both at the international and regional levels, information and experiences related to the means used to implement their legal provisions concerned with the protection of victims of crime and abuse of power;

"8. Recommends the United Nations and other organizations concerned to strengthen their technical co-operation activities in order to help Governments to implement the Declaration and other relevant guidelines and to strengthen international co-operation in this respect."

Decision 11/114. The role of criminal law in the protection of nature and the environment*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 3 (topic I) of its provisional agenda:

"The role of criminal law in the protection of nature and the environment

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recognizing that the environment must be protected *per se* in its entirety and in its various component parts and their interrelations, as the foundation and basis for life,

"Deeply concerned about the increasing damage to the environment caused by detrimental influences,

"Fearing an occurrence of environmental disasters brought about by additional disturbances of the ecological system,

"Realizing that intensified international efforts are necessary to save the environment or at least to protect it from further deterioration,

"Considering the fact that effective measures to protect the environment can be implemented only if awareness of the problems and willingness to act accordingly are developed,

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* For the discussion, see chap. IV.

"Recognizing that the United Nations should continue to play a substantial role in promoting protection of the environment, particularly through the United Nations Environment Programme,

"Recognizing also that the United Nations Environment Programme is the lead agency in handling environmental matters,

"Convinced further that besides measures provided by administrative law and liability under civil law, measures should also be taken as a last resort in the field of criminal law,

"1. Calls upon Member States:

"(a) To recognize the need to enact, where necessary, and to enforce national criminal laws designed to protect persons threatened by the deterioration of the environment and to preserve the ecosystem and natural resources such as water, air and soil;

"(b) To envisage the protection, under national criminal laws, of nature and the environment against the dumping of hazardous wastes or other similar materials and against the operation of dangerous technical installations that they consider to involve unacceptable margins of risk;

"(c) To provide for the modification, wherever necessary, of national criminal laws for the purpose of protecting nature and the environment;

"(d) To implement effectively their national laws, including criminal laws, concerning environmental protection;

"2. Asks Member States:

"(a) To take measures to encourage public awareness concerning environmental protection and to stimulate the readiness to act accordingly;

"(b) To consider becoming parties to the conventions on environmental protection and the conservation of nature;

"3. Requests the Secretary-General:

"(a) To encourage the incorporation, in future international conventions for the protection of the environment, of provisions under which States would be expected to enact sanctions under national criminal law;

"(b) To examine the possibilities of further harmonization of the provisions of existing international instruments entailing penal sanctions under national criminal law;

"(c) To prepare a report every five years on developments in the field of environmental criminal law;

"(d) To assess the priority to be given to the topic at future United Nations congresses on the prevention of crime and the treatment of offenders."

Decision 11/115. Basic principles for the treatment of prisoners*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed basic principles for the treatment of prisoners (A/CONF.144/RPM.3), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 4 (topic II) of its provisional agenda:

"Basic principles for the treatment of prisoners

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Bearing in mind the long-standing concern of the United Nations for the humanization of criminal justice and the protection of human rights,

"Bearing in mind also that sound policies of crime prevention and control are essential to viable planning for economic and social development,

"Recognizing that the Standard Minimum Rules for the Treatment of Prisoners, [139] adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, are of great value and influence in the development of penal policy and practice,

"Considering the concern of previous congresses regarding the obstacles of various kinds that prevent the full implementation of the Rules,

"Believing that the full implementation of the Rules would be facilitated by the articulation of the basic principles underlying them,

"Recalling resolution 10 on the status of prisoners and resolution 17 on the human rights of prisoners adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recalling also the statement submitted at the tenth session of the Committee on Crime Prevention and Control by the International Prisoners' Aid Association, Caritas Internationalis, the Commission of the Churches on International Affairs of the World Council of Churches, the International Association of Educators for World Peace, the International Council for Adult Education, the International Federation of Human Rights, the International Union of Students, the World Alliance of Young Men's Christian Associations and the World Council of Indigenous Peoples, which are non-governmental organizations in consultative status with the Economic and Social Council, category II,

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* For the discussion, see chap. IV.

[139] See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

"*Recalling further* the relevant recommendations contained in the report of the interregional preparatory meeting for the Eighth Congress on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures, [140]

"*Aware* that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders coincides with International Literacy Year, proclaimed by the General Assembly in its resolution 42/104 of 7 December 1987,

"*Desiring* to reflect the perspective noted by the Seventh Congress, namely, that the function of the criminal justice system is to contribute to safeguarding the basic values and norms of society,

"*Recognizing* the usefulness of drafting a declaration on the human rights of prisoners,

"*Affirms* the following statement of basic principles for the treatment of prisoners, and requests the Secretary-General of the United Nations to draw it to the attention of Member States,

"Statement of basic principles for the treatment of prisoners

"1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

"2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

"3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.

"4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.

"5. Except for the necessary limitation of the freedom of movement, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, [141] the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, [142] and such other rights as are set out in other United Nations covenants.

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[140] A/CONF.144/IPM.4.

[141] General Assembly resolution 217 A (III).

[142] General Assembly resolution 2200 A (XXI), annex.

"6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.

"7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be encouraged.

"8. Conditions shall be created enabling prisoners to undertake properly remunerated employment, to remain involved in the country's labour market and to contribute to their families' financial support and to their own.

"9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

"10. With the participation and help of the community and social institutions, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.

"11. The above principles shall be applied impartially."

Decision 11/116. Guidelines on the role of prosecutors*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed guidelines on the role of prosecutors (E/AC.57/1990/5/Add.5, draft resolution V), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 7 (topic V) of its provisional agenda:

"Guidelines on the Role of Prosecutors

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Recalling* the Milan Plan of Action, [143] adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

"*Recalling also* resolution 7 of the Seventh Congress, [144] in which the Committee on Crime Prevention and Control was called upon to consider the need for guidelines relating to prosecutors,

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* For the discussion, see chap. IV.

[143] See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

[144] *Ibid*., sect. E.

"Taking note with appreciation of the work accomplished, in pursuance of that resolution, by the Committee and the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"1. Adopts the Guidelines on the Role of Prosecutors contained in the annex to the present resolution;

"2. Recommends the Guidelines for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

"3. Invites Member States to take into account and to respect the Guidelines within the framework of their national legislation and practice;

"4. Also invites Member States to bring the Guidelines to the attention of prosecutors as well as others, including judges, lawyers, members of the executive branch of government and the legislature, and the public in general;

"5. Urges the regional commissions, the regional and interregional institutes in the field of crime prevention and the treatment of offenders, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to become actively involved in the implementation of the Guidelines;

"6. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, the implementation of the present resolution;

"7. Requests the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the Guidelines, including their transmission to Governments, intergovernmental and non-governmental organizations and other parties concerned;

"8. Also requests the Secretary-General to prepare every five years, beginning in 1993, a report on the implementation of the Guidelines;

"9. Further requests the Secretary-General to assist Member States, at their request, in the implementation of the Guidelines and to report regularly thereon to the Committee;

"10. Requests that the present resolution be brought to the attention of all the United Nations bodies concerned.

"Annex

"GUIDELINES ON THE ROLE OF PROSECUTORS

"Whereas in the Charter of the United Nations the peoples of the world affirm, inter alia, their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion,

"*Whereas* the Universal Declaration of Human Rights 145/ enshrines the principles of equality before the law, the presumption of innocence and the right to a fair and public hearing by an independent and impartial tribunal,

"*Whereas* frequently there still exists a gap between the vision underlying those principles and the actual situation,

"*Whereas* the organization and administration of justice in every country should be inspired by those principles, and efforts undertaken to translate them fully into reality,

"*Whereas* prosecutors play a crucial role in the administration of justice, and rules concerning the performance of their important responsibilities should promote their respect for and compliance with the above-mentioned principles, thus contributing to fair and equitable criminal justice and the effective protection of citizens against crime,

"*Whereas* it is essential to ensure that prosecutors possess the professional qualifications required for the accomplishment of their functions, through improved methods of recruitment and legal and professional training, and through the provision of all necessary means for the proper performance of their role in combating criminality, particularly in its new forms and dimensions,

"*Whereas* the General Assembly, by its resolution 34/169 of 17 December 1979, adopted the Code of Conduct for Law Enforcement Officials, on the recommendation of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"*Whereas* in resolution 16 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 146/ the Committee on Crime Prevention and Control was called upon to include among its priorities the elaboration of guidelines relating to the independence of judges and the selection, professional training and status of judges and prosecutors,

"*Whereas* the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted the Basic Principles on the Independence of the Judiciary, 147/ subsequently endorsed by the General Assembly in its resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985,

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145/ General Assembly resolution 217 A (III).

146/ See *Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980* (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.

147/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.

"**Whereas**, in resolution 7 of the Seventh Congress, the Committee was called upon to consider the need for guidelines relating, inter alia, to the selection, professional training and status of prosecutors, their expected tasks and conduct, means to enhance their contribution to the smooth functioning of the criminal justice system and their co-operation with the police, the scope of their discretionary powers, and their role in criminal proceedings, and to report thereon to future United Nations congresses,

"The Guidelines set forth below, which have been formulated to assist Member States in their tasks of securing and promoting the effectiveness, impartiality and fairness of prosecutors in criminal proceedings, should be respected and taken into account by Governments within the framework of their national legislation and practice, and should be brought to the attention of prosecutors, as well as other persons, such as judges, lawyers, members of the executive and the legislature and the public in general. The present Guidelines have been formulated principally with public prosecutors in mind, but they apply equally, as appropriate, to prosecutors appointed on an ad hoc basis.

"Qualifications, selection and training

"1. Persons selected as prosecutors shall be individuals of integrity and ability, with appropriate training and qualifications.

"2. States shall ensure that:

"(a) Selection criteria for prosecutors embody safeguards against appointments based on partiality or prejudice, excluding any discrimination against a person on the grounds of race, colour, sex, language, religion, political or other opinion, national, social or ethnic origin, property, birth, economic or other status, except that it would not be considered discriminatory to require a candidate for prosecutorial office to be a national of the country concerned;

"(b) Prosecutors have appropriate education and training and should be made aware of the ideals and ethical duties of their office, of the constitutional and statutory protections for the rights of the suspect, and of human rights and fundamental freedoms recognized by national and international law.

"Status and conditions of service

"3. Prosecutors, as essential agents of the administration of justice, shall at all times maintain the honour and dignity of their profession.

"4. States shall ensure that prosecutors are able to perform their professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability.

"5. Prosecutors and their families shall be physically protected by the authorities when their personal safety is threatened as a result of the discharge of prosecutorial functions.

"6. Reasonable conditions of service of prosecutors, adequate remuneration and, where applicable, tenure, pension and age of retirement shall be secured by law.

"7. Promotion of prosecutors, wherever such a system exists, shall be based on objective factors, in particular professional qualifications, ability, integrity and experience, and decided upon in accordance with fair and impartial procedures.

"Freedom of expression and association

"8. Prosecutors like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional disadvantage by reason of their lawful action or their membership in a lawful organization. In exercising these rights, prosecutors shall always conduct themselves in accordance with the law and the recognized standards and ethics of their profession.

"9. Prosecutors shall be free to form and join professional associations or other organizations to represent their interests, to promote their professional training and to protect their status.

"Role in criminal proceedings

"10. The office of prosecutors shall be strictly separated from judicial functions.

"11. Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest.

"12. Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.

"13. In the performance of their duties, prosecutors shall:

"(a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination;

"(b) Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect;

"(c) Keep matters in their possession confidential, unless the performance of duty or the needs of justice require otherwise.

"14. Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.

"15. Prosecutors shall give due attention to the prosecution of serious crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences.

"16. When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds to have been obtained through recourse to unlawful methods, which constitute a violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other grave abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.

"17. Prosecution shall call juveniles as witnesses in criminal proceedings only when strictly necessary.

"Discretionary functions

"18. In countries where prosecutors are vested with discretionary functions, the law or published rules or regulations shall provide guidelines to enhance fairness and consistency of approach in taking decisions in the prosecution process, including institution or waiver of prosecution.

"Alternatives to prosecution

"19. In accordance with national law, prosecutors shall give due consideration to waiving prosecution, discontinuing proceedings conditionally or unconditionally, or diverting criminal cases from the formal justice system, with full respect for the rights of the suspect(s) and the victim(s). For this purpose, States should fully explore the possibility of adopting diversion schemes not only to alleviate excessive court loads, but also to avoid the stigmatization of pre-trial detention, indictment and conviction, as well as the possible adverse effects of imprisonment.

"20. In countries where prosecutors are vested with discretionary functions as to the decision whether or not to prosecute a juvenile, special considerations shall be given to the nature and gravity of the offence, protection of society and the personality and background of the juvenile. In making that decision, prosecutors shall particularly consider available alternatives to prosecution under the relevant juvenile justice laws and procedures. Prosecutors shall use their best efforts to take prosecutory action against juveniles only to the extent strictly necessary.

"Relations with other government agencies or institutions

"21. In order to ensure the fairness and effectiveness of prosecution, prosecutors shall strive to co-operate with the police, the courts, the legal profession, public defenders and other government agencies or institutions within or outside the justice system.

"Disciplinary proceedings

"22. Disciplinary offences of prosecutors shall be based on law or lawful regulations. Complaints against prosecutors in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Prosecutors shall have the right to a fair hearing. The decision shall be subject to independent review.

"23. Disciplinary proceedings against prosecutors shall guarantee an objective evaluation and decision. They shall be determined in accordance with the law, the code of professional conduct and other established standards and ethics and in the light of the present Guidelines.

"Observance of the Guidelines

"24. Prosecutors shall respect the present Guidelines. They shall also, to the best of their capability, prevent and actively oppose any violations thereof.

"25. Prosecutors who have reason to believe that a violation of the present Guidelines has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power."

Decision 11/117. United Nations guidelines for the prevention of juvenile delinquency (the Riyadh guidelines)*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed United Nations guidelines for the prevention of juvenile delinquency (the Riyadh guidelines) (E/AC.57/1990/5/Add.4, draft resolution I), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 6 (topic IV) of its provisional agenda:

"United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)*

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

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* For the discussion, see chap. IV.

"_Bearing in mind_ the Universal Declaration of Human Rights, 148/ the International Covenant on Economic, Social and Cultural Rights and 149/ the International Covenant on Civil and Political Rights, 149/ as well as other international instruments pertaining to the rights and well-being of young persons, including relevant standards established by the International Labour Organisation,

"_Bearing in mind also_ the Declaration of the Rights of the Child, 150/ the Convention on the Rights of the Child, 151/ and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 152/

"_Recalling_ General Assembly resolution 40/33 of 29 November 1985, in which the Assembly adopted the United Nations Standard Minimum Rules for the Administration of Juvenile Justice recommended by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"_Recalling also_ that the General Assembly, in its resolution 40/35 of 29 November 1985, called for the development of standards for the prevention of juvenile delinquency which would assist Member States in formulating and implementing specialized programmes and policies, emphasizing assistance, care and community involvement, and called upon the Economic and Social Council to report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the progress achieved with respect to these standards, for review and action,

"_Recalling further_ that the Economic and Social Council, in resolution 1986/10 of 21 May 1986, requested the Eighth Congress to consider the draft standards for the prevention of juvenile delinquency, with the view to their adoption,

"_Recognizing_ the need to develop national, regional and international approaches and strategies for the prevention of juvenile delinquency,

"_Affirming_ that every child has basic human rights, including, in particular, access to free education,

"_Mindful_ of the large number of young persons who may or may not be in conflict with the law but who are abandoned, neglected, abused, exposed to drug abuse, in marginal circumstances, and who are in general at social risk,

"_Taking into account_ the benefits of progressive policies for the prevention of delinquency and the welfare of the community,

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148/ General Assembly resolution 217 A (III).

149/ General Assembly resolution 2200 A (XXI), annex.

150/ General Assembly resolution 1386 (XIV).

151/ General Assembly resolution 44/25, annex.

152/ General Assembly resolution 40/33, annex.

"1. Notes with satisfaction the substantive work accomplished by the Committee on Crime Prevention and Control and the Secretary-General in the formulation of the guidelines for the prevention of juvenile delinquency;

"2. Expresses appreciation for the valuable collaboration of the Arab Security Studies and Training Centre at Riyadh, in hosting the International Meeting of Experts on the Development of the United Nations Draft Guidelines for the Prevention of Juvenile Delinquency, held at Riyadh from 28 February to 1 March 1988, in co-operation with the United Nations Office at Vienna;

"3. Adopts the United Nations Guidelines for the Prevention of Juvenile Delinquency contained in the annex to the present resolution, to be designated 'the Riyadh Guidelines';

"4. Calls upon Member States, in their comprehensive crime prevention plans, to apply the Guidelines in national law, policy and practice and to bring the Guidelines to the attention of relevant authorities, including policy makers, juvenile justice personnel, educators, the mass media, practitioners and scholars;

"5. Requests the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Guidelines in all of the official languages of the United Nations;

"6. Further requests the Secretary-General and invites all relevant United Nations offices and interested institutions, in particular, the United Nations Children's Fund, as well as individual experts, to make a concerted effort to promote the application of the Guidelines;

"7. Urges all relevant bodies within the United Nations system to collaborate with the Secretary-General in taking appropriate measures to ensure the implementation of the present resolution;

"8. Invites the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to consider this new international instrument with a view to promoting the application of its provisions;

"9. Invites Member States to support strongly the organization of technical and scientific workshops, as well as pilot and demonstration projects on practical issues and policy matters relating to the application of the provisions of the Guidelines and to the establishment of concrete measures for community-based services designed to respond to the special needs, problems and concerns of young persons, and requests the Secretary-General to co-ordinate efforts in this respect;

"10. Also invites Member States to inform the Secretary-General on the implementation of the Guidelines and to report regularly to the Committee on Crime Prevention and Control on the results achieved.

"Annex

"UNITED NATIONS GUIDELINES FOR THE PREVENTION OF JUVENILE DELINQUENCY
(The Riyadh Guidelines)

"I. FUNDAMENTAL PRINCIPLES

"1. The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes.

"2. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.

"3. For the purposes of the interpretation of these guidelines, a child-centred orientation should be pursued. Young persons should have an active role and partnership within society and should not be considered as objects of socialization and control.

"4. In the implementation of these Guidelines, in accordance with national legal systems, the well-being of young persons from their early childhood should be the focus of any preventive programme.

"5. The need for and importance of progressive delinquency prevention policies and measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others. Such policies and measures should involve:

"(a) The provision of opportunities, in particular educational, to meet the varying needs of young persons and to serve as a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk and are in need of special care and protection;

"(b) Specialized philosophies and approaches for delinquency prevention, on the basis of laws, processes, institutions, facilities and a service delivery network aimed at reducing the motivation, need and opportunity for, or conditions giving rise to, the commission of infractions;

"(c) Official intervention to be pursued primarily in the overall interest of the young person and guided by fairness and equity;

"(d) Safeguarding the well-being, development, rights and interests of all young persons;

"(e) Consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood;

"(f) Awareness that, in the predominant opinion of experts, labelling a young person as "deviant", "delinquent" or "pre-delinquent" often contributes to the development of a consistent pattern of undesirable behaviour by young persons.

"6. Community-based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilized as a means of last resort.

"II. SCOPE OF THE GUIDELINES

"7. These Guidelines should be interpreted and implemented within the broad framework of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child and the Convention on the Rights of the Child, and in the context of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, as well as other instruments and norms relating to the rights, interests and well-being of all children and young persons.

"8. These Guidelines should also be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

"III. GENERAL PREVENTION

"9. Comprehensive prevention plans should be instituted at every level of government and include the following:

"(a) In-depth analyses of the problem and inventories of programmes, services, facilities and resources available;

"(b) Well-defined responsibilities for the qualified agencies, institutions and personnel involved in preventive efforts;

"(c) Mechanisms for the appropriate co-ordination of prevention efforts between governmental and non-governmental agencies;

"(d) Policies, programmes and strategies based on prognostic studies to be continuously monitored and carefully evaluated in the course of implementation;

"(e) Methods for effectively reducing the opportunity to commit delinquent acts;

"(f) Community involvement through a wide range of services and programmes;

"(g) Close interdisciplinary co-operation between national, state, provincial and local governments, with the involvement of the private sector, representative citizens of the community to be served, and labour, child-care, health education, social, law enforcement and judicial agencies in taking concerted action to prevent juvenile delinquency and youth crime;

"(h) Youth participation in delinquency prevention policies and processes, including recourse to community resources, youth self-help, and victim compensation and assistance programmes;

"(i) Specialized personnel at all levels.

"IV. SOCIALIZATION PROCESSES

"10. Emphasis should be placed on preventive policies facilitating the successful socialization and integration of all children and young persons, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations. Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.

"A. Family

"11. Every society should place a high priority on the needs and well-being of the family and of all its members.

"12. Since the family is the central unit responsible for the primary socialization of children, governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued. The society has a responsibility to assist the family in providing care and protection and in ensuring the physical and mental well-being of children. Adequate arrangements including day-care should be provided.

"13. Governments should establish policies that are conducive to the bringing up of children in stable and settled family environments. Families in need of assistance in the resolution of conditions of instability or conflict should be provided with requisite services.

"14. Where a stable and settled family environment is lacking and when community efforts to assist parents in this regard have failed and the extended family cannot fulfil this role, alternative placements, including foster care and adoption, should be considered. Such placements should replicate, to the extent possible, a stable and settled family environment, while, at the same time, establishing a sense of permanency for children, thus avoiding problems associated with "foster drift".

"15. Special attention should be given to children of families affected by problems brought about by rapid and uneven economic, social and cultural change, in particular the children of indigenous and migrant families. As such changes may disrupt the social capacity of the family to secure the traditional rearing and nurturing of children, often as a result of role and culture conflict, innovative and socially constructive modalities for the socialization of children have to be designed.

"16. Measures should be taken and programmes developed to provide families with the opportunity to learn about parental roles and obligations as regards child development and child care, promoting positive parent-child relationships, sensitizing parents to the problems of children and young persons and encouraging their involvement in family and community-based activities.

"17. Governments should take measures to promote family cohesion and harmony and to discourage the separation of children from their parents, unless circumstances affecting the welfare and future of the child leave no alternative.

"18. It is important to emphasize the social control function of the family and extended family; it is also equally important to recognize the future role, responsibilities, participation and partnership of young persons in society.

"19. In ensuring the right of the child to proper socialization, Governments and other agencies should rely on existing social and legal agencies, but, whenever traditional institutions and customs are no longer effective, they should also provide and allow for innovative measures.

"B. Education

"20. Governments are under an obligation to make public education accessible to all young persons.

"21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following:

"(a) Teaching of basic values and developing respect for the child's own cultural identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child's own and for human rights and fundamental freedoms;

"(b) Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;

"(c) Involvement of young persons as active participants in, rather than mere objects of, the educational process;

"(d) Undertaking activities that foster a sense of identity with and of belonging to the school and the community, as well as mutual understanding and harmony;

"(e) Encouragement of young persons to understand and respect diverse views and opinions, as well as cultural and other differences;

"(f) Provision of information and guidance regarding vocational training, employment opportunities and career development;

"(g) Avoidance of harsh disciplinary measures, particularly corporal punishment.

"22. Educational systems should seek to work together with parents, community organizations and agencies concerned with the activities of young persons.

"23. Young persons should be informed about the law, their rights and responsibilities under the law, as well as the universal value system.

"24. Educational systems should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.

"25. Special attention should be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young persons. Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs should be made available to the student body.

"26. Schools should serve as resource and referral centres for the provision of medical, counselling and other services to young persons, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation.

"27. Through a variety of educational programmes, teachers and other adults should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to underpriviledged, disadvantaged, ethnic or other minority and low-income groups.

"28. School systems should attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches and the recruitment and training of qualified teachers. Regular monitoring and assessment of performance by the appropriate professional organizations and authorities should be ensured.

"29. School systems should plan, develop and implement extra-curricular activities of interest to young persons, in co-operation with community groups.

"30. Assistance should be given to children and young persons who find it difficult to comply with attendance codes, as well as to "drop-outs".

"31. Schools should promote policies and rules that are fair and just; students should be represented in school policy, decision-making and disciplinary matters and proceedings.

"C. Community

"32. Community-based services and programmes which respond to the special needs, problems, interests and concerns of young persons and which offer appropriate counselling and guidance to young persons and their families should be developed, or strengthened where they exist.

"33. Communities should provide, or strengthen where they exist, a wide range of community-based support measures for young persons, including community development centres, recreational facilities and services to respond to the special problems of children who are at social risk. In providing these helping measures, respect for individual rights should be ensured.

"34. Special facilities should be set up to provide adequate shelter for young persons who are no longer able to live at home.

"35. A range of services and helping measures should be provided to deal with the difficulties experienced by young persons in the transition from childhood to adulthood. Such services should include special programmes for young drug abusers which emphasize care, counselling, assistance and therapy-oriented interventions.

"36. Voluntary organizations providing services for young persons should be given financial and other support by Governments and other institutions.

"37. Youth organizations should be created or strengthened at the local level and given full participatory status in the management of community affairs. These organizations should encourage youth to organize collective and voluntary projects, particularly projects aimed at helping young persons in need of assistance.

"38. Government agencies should take special responsibility and provide necessary services for homeless or street children; information about local facilities, accommodation, employment and other forms and sources of help should be made readily available to young persons.

"39. A wide range of recreational facilities and services of particular interest to young persons should be established and made easily accessible to them.

"D. Mass media

"40. The mass media should be encouraged to ensure that the child has access to information and material from a diversity of national and international sources.

"41. The mass media should be encouraged to portray the positive contribution of young persons to society.

"42. The mass media should be encouraged to disseminate information on the existence of services, facilities and opportunities for young persons in society.

"43. The mass media generally, and the television and film media in particular, should be encouraged to reduce the level of violence portrayed and to display violence and exploitation disfavourably, as well as to avoid demeaning and degrading presentations of children, women and interpersonal relations and to promote egalitarian principles and roles.

"44. The mass media should be aware of its extensive role and responsibility, as well as its influence, in communications relating to youthful drug abuse. It should use its power for drug abuse prevention by relaying consistent messages through a balanced approach. Effective drug awareness campaigns at the primary, secondary and tertiary levels should be promoted.

"V. SOCIAL POLICY

"45. Government agencies should give high priority to plans and programmes for young persons and should provide sufficient funds and other resources for the effective delivery of services, facilities and staff for adequate medical and mental health care, nutrition, housing and other relevant services, including drug abuse prevention and treatment, ensuring that such resources reach and actually benefit young persons.

"46. The institutionalization of young persons should be a measure of last resort and for the minimum necessary period, and the best interests of the young person should be of paramount importance. Criteria authorizing formal intervention of this type should be strictly defined and limited to the following situations: (a) where the child or young person has suffered harm that has been inflicted by the parents or guardians; (b) where the child or young person has been sexually, physically or emotionally abused by the parents or guardians; (c) where the child or young person has been neglected, abandoned or exploited by the parents or guardians; and (d) where the child or young person is threatened by physical or moral danger due to the behaviour of the parents or guardians.

"47. Government agencies should provide young persons with the opportunity of continuing in full-time education, funded by the State where parents or guardians are unable to support the young persons, and of receiving work experience.

"48. Programmes to prevent delinquency should be planned and developed on the basis of reliable, scientific research findings, and periodically monitored, evaluated and adjusted accordingly.

"49. Scientific information should be disseminated to the professional community and to the public at large about the sort of behaviour or situation which indicates or may result in physical and psychological victimization, harm and abuse, as well as exploitation, of young persons.

"50. Generally, participation in plans and programmes should be voluntary. Young persons themselves should be involved in their formulation, development and implementation.

"VI. LEGISLATION AND JUVENILE JUSTICE ADMINISTRATION

"51. Governments should enact and enforce specific laws and procedures to promote and protect the rights and well-being of all young persons.

"52. Legislation preventing the victimization, abuse and exploitation of children and young persons should be enacted and enforced.

"53. No child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions.

"54. Legislation and enforcement aimed at regulating and controlling accessibility of weapons of any sort to children and young persons should be pursued.

"55. In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or penalized if committed by an adult is not considered an offence or penalized if committed by a young person.

"56. Consideration should be given to the establishment of an office of Ombudsman or similar independent office for young persons, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made. Child advocacy services should also be established.

"57. Police and other justice personnel, of both sexes, should be trained to respond to the special needs of young persons and should be familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system.

"58. Legislation should be enacted and strictly enforced to protect children and young persons from drug abuse and drug traffickers.

"VII. RESEARCH, POLICY DEVELOPMENT AND CO-ORDINATION

"59. Efforts should be made and appropriate mechanisms established to promote, on both a multidisciplinary and an intradisciplinary basis, interaction and co-ordination between economic, social, educational and health agencies and services, the justice system, youth, community and development agencies and other relevant institutions.

"60. The exchange of information, experience and expertise gained through projects, programmes, practices and initiatives relating to youth crime, delinquency prevention and juvenile justice should be intensified at the national, regional and international levels.

"61. Regional and international co-operation on matters of youth crime, delinquency prevention and juvenile justice involving practitioners, experts and decision-makers should be further developed and strengthened.

"62. Technical and scientific co-operation on practical and policy-related matters, particularly in training, pilot and demonstration projects, and on specific issues concerning the prevention of youth crime and juvenile delinquency should be strongly supported by all Governments, the United Nations system and other concerned organizations.

"63. Collaboration should be encouraged in undertaking scientific research with respect to effective modalities for youth crime and juvenile delinquency prevention and the findings of such research should be widely disseminated and evaluated.

"64. Appropriate United Nations bodies, agencies and offices should pursue close collaboration and co-ordination on various questions related to children, juvenile justice and youth crime and juvenile delinquency prevention.

"65. On the basis of these Guidelines, the United Nations Secretariat, in co-operation with interested institutions, should play an active role in the conduct of research, scientific collaboration, the formulation of policy options and the review and monitoring of their implementation, and should serve as a source of reliable information on effective modalities for delinquency prevention."

Decision 11/118. United Nations rules for the protection of juveniles deprived of their liberty*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed United Nations rules for the protection of juveniles deprived of their liberty (E/AC.57/1990/5/Add.4, draft resolution II), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 6 (topic IV) of its provisional agenda:

"United Nations Rules for the Protection of Juveniles Deprived of their Liberty

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Bearing in mind* the Universal Declaration of Human Rights, 153/ the International Covenant on Civil and Political Rights, 154/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 155/ and the Convention on the Rights of the Child, 156/ as well as other international instruments relating to the protection of the rights and well-being of young persons,

"*Bearing in mind also* the Standard Minimum Rules for the Treatment of Prisoners 157/ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"*Bearing in mind also* the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, approved by the General Assembly in its resolution 43/173 of 9 December 1988,

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* For the discussion, see chap. IV.

153/ General Assembly resolution 217 A (III).

154/ General Assembly resolution 2200 A (XXI), annex.

155/ General Assembly resolution 39/46, annex.

156/ General Assembly resolution 44/25, annex.

157/ See *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1), sect. G.

"*Recalling* the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 158/

"*Recalling also* resolution 21 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 159/ in which the Congress called for the development of United Nations rules for the protection of juveniles deprived of their liberty,

"*Recalling further* that the Economic and Social Council, in resolution 1986/10, section II, of 21 May 1986, requested the Secretary-General to report on progress achieved in respect of the rules to the Committee on Crime Prevention and Control at its tenth session and requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the proposed rules with a view to their adoption,

"*Alarmed* at the conditions and circumstances under which juveniles are being deprived of their liberty worldwide,

"*Aware* that juveniles deprived of their liberty are highly vulnerable to abuse, victimization and the violation of their rights,

"*Concerned* that many systems do not differentiate between adults and juveniles at various stages of justice administration and that juveniles are therefore being held in gaols and facilities with adults,

"1. *Affirms* that the placement of a juvenile in an institution should always be a disposition of last resort and for the minimum necessary period;

"2. *Recognizes* that, because of their high vulnerability, juveniles deprived of their liberty require special attention and protection and that their rights and well-being should be guaranteed during and after the period when they are deprived of their liberty;

"3. *Notes with appreciation* the valuable work of the United Nations Secretariat and the collaboration which has been established between the Secretariat and experts, practitioners, intergovernmental organizations, the non-governmental community, particulary Amnesty International, Defence for Children International and Rädda Barnen (Swedish Save the Children), and scientific institutions concerned with children's rights and juvenile justice in developing in the rules;

"4. *Adopts* the United Nations Rules for the Protection of Juveniles Deprived of their Liberty contained in the annex to the present resolution;

158/ General Assembly resolution 40/33, annex.

159/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations pubication, Sales No. E.86.IV.1), chap. I, sect. E.

"5. Calls upon the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Rules, with the assistance of the United Nations institutes on the prevention of crime and the treatment of offenders;

"6. Invites Member States to adapt, wherever necessary, their national legislation, policies and practices, particularly in training all categories of juvenile justice personnel, to the spirit of the Rules, and to bring them to the attention of relevant authorities and the public in general;

"7. Also invites Member States to inform the Secretary-General of their efforts to apply the Rules in law, policy and practice and to report regularly to the Committee on Crime Prevention and Control on the results achieved in their implementation;

"8. Requests the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Rules in all of the official languages of the United Nations;

"9. Requests the Secretary-General and urges Member States to allocate the necessary resources to ensure the successful application and implementation of the Rules, in particular in the areas of recruitment, training and exchange of all categories of juvenile justice personnel;

"10. Urges all relevant bodies of the United Nations system, in particular the United Nations Children's Fund, the regional commissions and specialized agencies, the United Nations institutes for the prevention of crime and the treatment of offenders and all concerned intergovernmental and non-governmental organizations, to collaborate with the Secretary-General and to take the necessary measures to ensure a concerted and sustained effort within their respective fields of technical competence to promote the application of the Rules;

"11. Invites the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to consider this new international instrument, with a view to promoting the application of its provisions.

"Annex

"UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY

"I. FUNDAMENTAL PERSPECTIVES

"1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Every effort should be made to restrict the imprisonment of juveniles.

"2. Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period. It should be limited to exceptional cases, for purposes of carrying out a sentence, upon conviction, for the most serious types of offence, and with due regard to the attendant circumstances and conditions. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.

"3. The Rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

"4. The Rules should be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.

"5. The Rules are designed to serve as convenient standards of reference and to provide encouragement and guidance to professionals involved in the management of the juvenile justice system.

"6. The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the personnel of the detention facility should have the right to the services of an interpreter whenever necessary, in particular during medical examinations and disciplinary proceedings.

"7. Where appropriate, States should incorporate the Rules into their legislation or amend it accordingly and provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles. States should also monitor the application of the Rules.

"8. The competent authorities should constantly seek to increase the awareness of the public that the care of detained juveniles and preparation for their return to society is a social service of great importance, and to this end active steps should be taken to foster open contacts between the juveniles and the local community.

"9. Nothing in the Rules should be interpreted as precluding the application of the relevant United Nations and human rights instruments and standards, recognized by the international community, that relate to the rights, care and protection of juveniles, children and all young persons.

"II. SCOPE AND APPLICATION OF THE RULES

"10. For the purposes of the Rules, the following definitions should apply:

"(a) A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law;

"(b) The deprivation of liberty means any form of detention or imprisonment or the placement of a person in another public or private custodial setting from which this person is not permitted to leave at will by order of any judicial, administrative or other public authority.

"11. The deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

"12. Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty, such as social security rights and benefits, freedom of association and, upon reaching the minimum age established by law, the right to marry.

"13. The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent judicial authority, while the objectives of social integration should be secured by regular inspections and other means of control carried out, according to international standards, national laws and regulations, by a duly constituted body authorized to visit the juveniles and not belonging to the detention facility.

"14. The Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty. Parts I, II, IV and V of the Rules apply to all detention facilities and institutional settings in which juveniles are detained, and part III applies specifically to juveniles under arrest or awaiting trial.

"15. The Rules shall be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

"III. JUVENILES UNDER ARREST OR AWAITING TRIAL

"16. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. In any case, untried detainees should be separated from convicted juveniles.

"17. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

"(a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Such communication shall ensure privacy and confidentiality;

"(b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. In no case should work, education or training cause the continuation of the detention;

"(c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

"IV. THE MANAGEMENT OF JUVENILE FACILITIES

"A. Records

"18. All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

"19. No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register.

"B. Admission, registration, movement and transfer

"20. In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

"(a) Information on the identity of the juvenile;

"(b) The fact of and reasons for commitment and the authority therefor;

"(c) The day and hour of admission, transfer and release;

"(d) Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;

"(e) Details of known physical and mental health problems, including drug and alcohol abuse.

"21. The above-mentioned information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

"22. As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

"23. On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

"24. All juveniles should be helped to understand the regulations governing the internal organization of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints, and all such other matters as are necessary to enable them to understand fully their rights and obligations during detention.

"25. The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

"C. Classification and placement

"26. As soon as possible after the moment of admission, each juvenile should be interviewed, and a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared. This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purposes of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and programme required and to be pursued.

"27. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

"28. In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been definitively proven to be beneficial for the juveniles concerned.

"29. Open detention facilities for juveniles should be established. Open detention facilities are those with no or minimal security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

"D. Physical environment and accommodation

"30. Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

"31. The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

"32. Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness.

"33. Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.

"34. The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognized and respected. Personal effects that the juvenile does not choose to retain or that are confiscated should be placed in safe custody. An inventory thereof should be signed by the juvenile. Steps should be taken to keep them in good condition. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorized to spend money or send such property out of the facility. If a juvenile receives or is found in possession of any medicine, the medical officer should decide what use should be made of it.

"35. To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

"36. Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

"E. Education, vocational training and work

"37. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

"38. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

"39. Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.

"40. Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles, who should be encouraged and enabled to make full use of it.

"41. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

"42. With due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

"43. All protective national and international standards applicable to child labour and young workers should apply to juveniles deprived of their liberty.

"44. Wherever possible, juveniles should be provided with the opportunity to perform remunerated labour, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organization and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community, so as to prepare juveniles for the conditions of normal occupational life.

"45. Every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offence or to send it to his or her family or other persons outside the detention facility.

"F. Recreation

"46. Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

"G. Religion

"47. Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by contacting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.

"H. Medical care

"48. Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community.

"49. Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

"50. The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

"51. Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

"52. A juvenile who is suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

"53. Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.

"54. Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they should never be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testees in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by qualified medical personnel.

"I. Notification of illness, injury and death

"55. The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

"56. Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

"57. A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

"J. Contacts with the wider community

"58. Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave detention facilities for a visit to their home and family and to receive special permission to leave the detention facility for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

"59. Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel.

"60. Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order effectively to enjoy this right. Every juvenile should have the right to receive correspondence.

"61. Juveniles should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programmes and motion pictures, and through the visits of the representatives of any lawful club or organization in which the juvenile is interested.

"K. Limitations of physical restraint and the use of force

"62. Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 63.

"63. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

"64. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

"L. Disciplinary procedures

"65. Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

"66. All disciplinary measures constituting cruel, inhumane or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

"67. Legislation or regulations adopted by the competent administrative authority should establish norms concerning the following, taking full account of the fundamental characteristics, needs and rights of juveniles:

"(a) Conduct constituting a disciplinary offence;

"(b) Type and duration of disciplinary sanctions that may be inflicted;

"(c) The authority competent to impose such sanctions;

"(d) The authority competent to consider appeals.

"68. A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The competent authority should conduct a thorough examination of the case.

"69. No juvenile should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force. No juvenile should be sanctioned unless he or she has been informed of the alleged infraction in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defence, including the right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

"70. No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programmes.

"M. Inspection and complaints

"71. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

"72. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

"73. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

"74. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

"75. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

"76. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

"77. Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

"N. Return to the community

"78. All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

"79. Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing, and sufficient means to maintain himself or herself upon release. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them in their return to the community.

"V. PERSONNEL

"80. Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when this is appropriate and beneficial to the level of support and training they can provide. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

"81. The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

"82. To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

"83. The administration should introduce forms of organization and management that facilitate communications between different categories of staff in each detention facility so as to enhance co-operation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favourable to the efficient fulfilment of their duties.

"84. The personnel should receive such training as will enable them to carry out their responsibilities effectively, including in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

"85. The director of a facility should be adequately qualified for his or her task by administrative ability, suitable training and experience, and should carry out his or her duties on a full-time basis.

"86. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles. In particular:

"(a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;

"(b) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;

"(c) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;

"(d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;

"(e) All personnel should respect the right of the juvenile to privacy, and in particular should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity;

"(f) All personnel should seek to minimize any differences between life inside and outside the detention facility which tend to lessen due respect to the dignity of juveniles as human beings."

Decision 11/119. Draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property (E/AC.57/1990/CRP.3), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 3 (topic I) of its provisional agenda:

"Draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"*Recalling* the Milan Plan of Action 160/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in resolution 40/32 of 29 November 1985,

"*Bearing in mind* the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 161/ among which principle 37 requires that the United Nations should prepare model instruments suitable for use as international and regional agreements and as guides for national implementing legislation,

"*Recalling also* resolution 1 of the Seventh Congress, 162/ in which Member States were urged to increase their activity at the international level, in order to combat organized crime and entering into bilateral assistance treaties,

"*Noting* that the Economic and Social Council, in its resolution 1989/62 of 24 May 1989, decided that the topic of transnational crimes against the cultural patrimony of countries should be included under item 3 of the provisional agenda of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in order to explore the possibilities for formulating comprehensive policies of international co-operation for the prevention of such offences,

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* For the discussion, see chap. IV.

160/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I., sect. A.

161/ *Ibid*., sect. B.

162/ *Ibid*., sect. E.

"*Desirous* of promoting co-operation to prevent unlawful acts that encroach on the historical and cultural legacy of peoples,

"*Bearing in mind* that the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of the United Nations Educational, Scientific and Cultural Organization, which entered into force on 24 April 1972, establishes in its declarative section the duty of every State to protect the heritage represented by the cultural property located on its territory against the dangers of robbery, clandestine excavation and illicit export, as well as a commitment to combat these practices by every available means, particularly with respect to stopping them while in progress, eliminating their causes and providing the assistance required to secure the return of the property in question,

"*Mindful* of the declarations and legal instruments that provide, as an essential undertaking, for the adoption, both nationally and internationally, of the most effective possible measures for adequately protecting, defending and recovering cultural property and for combating such acts as may damage or diminish those riches of an archaeological, historical and artistic nature that represent the expression of the national character of their respective peoples,

"*Convinced* that the best way of achieving these objectives is through the co-operation and mutual help that must exist in order to succeed in preventing crimes against cultural heritage and in returning the property in question to the countries from which it has been illicitly removed,

"*Conscious* of the need to respect human dignity and recalling the principles set forth in the Universal Declaration of Human Rights [163/] and the International Covenant on Economic, Social and Cultural Rights, as well as in the International Covenant on Civil and Political Rights, [164/]

"*Recognizing* the importance of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property as a means of preventing crimes of this type and securing the return of property that has been illicitly removed,

"1. *Approves* the draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, contained in the annex to the present resolution, as a useful framework that may be of assistance to interested States in negotiating and drawing up bilateral agreements designed to improve co-operation in the area of crime prevention and criminal justice;

[163/] General Assembly resolution 217 A (III).

[164/] General Assembly resolution 2200 A (XXI), annex.

"2. Invites those Member States that have not yet established treaty relations with other States for the prevention of crimes that infringe on the cultural heritage of peoples, or that wish to modify these relations if they already exist, to bear in mind, when so doing, the draft model treaty;

"3. Urges all Member States to continue to strengthen international co-operation and mutual assistance in resolving these problems;

"4. Calls upon Member States to inform the Secretary-General periodically of the efforts made to conclude agreements for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property;

"5. Requests the Secretary-General to establish, in co-operation with Member States and intergovernmental and non-governmental organizations, a centralized international computer data base containing information on movable cultural property that could be subject to illicit import or export and on national and international legislation related to the protection of cultural property, in collaboration with countries that have had experience in this field;

"6. Requests the Committee on Crime Prevention and Control to examine periodically the progress achieved in this area.

"Annex

"DRAFT MODEL TREATY FOR THE PREVENTION OF CRIMES THAT INFRINGE ON THE CULTURAL HERITAGE OF PEOPLES IN THE FORM OF MOVABLE PROPERTY

"The ______________________________ and the ______________________________,

"Wishing to add to the effectiveness of the co-operation between their two countries in combating criminal activities,

"Have agreed as follows:

"ARTICLE 1

"Definitions

"1. For the purposes of this Treaty, movable cultural property shall be understood as referring to such objects as part of the cultural patrimony and are regarded, as a result of the established legal procedure, by the States as important to archaeology, pre-history, history, literature, art or science, and as belonging to the categories enumerated below:

"(a) The material product of archaeological explorations and excavations on land and under water;

"(b) Objects regarded as ancient, such as tools, ceramics, ornaments, looms, musical instruments, pottery, inscriptions of all kinds, coins, engraved seals, jewels, weapons, funerary remains of any description, including mummies and bones of any kind, as well as manuscripts or incunabula, codices, books of any kind, and documents and publications;

"(c) The elements or parts that originate from the dismantling of historical monuments and structures of any age and kind;

"(d) Materials of anthropological, historical and ethnological interest;

"(e) Objects with a bearing on history, including the history of science and technology, military history, social history and religious history, and also the lives of peoples and leaders, scientific thinkers and national artists, or of persons who through their accomplishments have acquired national or international fame, as well as objects with a bearing on, or connected with, national events;

"(f) Rare collections and samples of zoology, botany, mineralogy, anatomy, and objects of palaeontological interest;

"(g) Objects of artistic interest such as:

"(i) Pictures, paintings and drawings on any substrate and on any material (excluding industrial drawings and hand-decorated manufactured articles);

"(ii) Original productions of statuary art or sculpture in any material;

"(iii) Original engravings, prints and lithographs;

"(iv) Original artistic ensembles and montages of any material;

"(h) Postage stamps, tax stamps and similar items, either singly or in collections;

"(i) Archives, including phonographic, photographic and cinematographic archives;

"(j) Furnishings of more than 100 years of age and ancient musical instruments.

"2. The movable cultural property defined in this document includes objects that belong to the State or to public agencies or to private legal or natural persons.

"ARTICLE 2

"General principles

"On the basis of mutual respect for national sovereignty and jurisdiction, the States Parties undertake:

"(a) To take the necessary measures to prevent the import of movable cultural property (i) stolen from any institutions such as museums, or from persons; and (ii) the export of which is expressly prohibited by the national legislation of the other State Party and located on the territory of that State;

"(b) To take the appropriate measures to recover and return, at the request of the other State Party to this Treaty, any movable cultural property illicitly removed or imported without such authorization as may be required under the applicable national legislation following the entry into force of the present Treaty;

"(c) To introduce the measures necessary to prevent the acquisition of movable cultural property by the museums and other similar institutions located on their territory, if this property has been unlawfully imported following the entry into force of the present Treaty;

"(d) To impose sanctions on all persons responsible for the illicit import and export of movable cultural property through the application of the legislation that they shall enact for this purpose. Further, the States Parties undertake to combat these practices by the means at their disposal, above all by eliminating their causes, stopping them while in progress, and taking whatever steps may be possible for the purpose of preventing them.

"ARTICLE 3

"Procedures

"1. The States Parties agree to apply, at the request, conveyed through diplomatic channels, of either one of them, the legal means available to them for the purpose of recovering and returning such archaeological, artistic or historical property as may have been illicitly removed or sent abroad from the territory of the requesting Party, which shall furnish the documentation or, in its absence, the proof necessary to establish the legitimacy of its claim. In the event that the requesting State is unable to collect and present any type of documentation, the legitimacy of the claim shall be determined in accordance with such procedures as the countries may agree through diplomatic channels. Whenever possible, the requested country shall contribute such proof as it may acquire.

"2. The costs involved in the recovery and return of illicitly imported property shall be borne by the requesting State, and no institution or person shall be entitled to claim any form of compensation, from the State returning the property claimed, for losses or damages it or he or she may have sustained. Neither shall the requesting State be required to compensate in any way such persons as may have participated in the illegal sending abroad of the property in question, although it must pay fair compensation to any person who in good faith acquired, or was in legal possession of, said property.

"3. Both Parties agree to exchange information for the purpose of identifying such persons, within the territory of either one of them, as may have participated in the illicit removal, sale or sending abroad of movable cultural property.

"4. Both Parties agree to provide information to an international centralized data base [to be specified] that exists for the purposes of providing information (a) on the description of the particulars of movable cultural property which is the subject of this treaty, and (b) on national legislation related to the protection of cultural patrimony.

"5. Both Parties agree to exempt from customs duties and other taxes such movable cultural property as may be recovered and returned under the terms of the present Treaty.

"ARTICLE 4

"Final provisions

"1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

"2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.

"3. This Treaty shall apply to requests made after its entry into force.

"4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.

"In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

____________________________ ____________________________

Done at ____________________ on ________________ in the ________________
and ____________________ languages (both) texts being equally authentic."
(all)

Decision 11/120. Model treaty on the transfer of proceedings in criminal matters*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed model treaty on the transfer of proceedings in criminal matters (E/AC.57/1990/5/Add.5, draft resolution III), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 5 (topic III) of its provisional agenda:

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* For the discussion, see chap. IV.

"Model Treaty on the Transfer of Proceedings in Criminal Matters

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Recalling* the Milan Plan of Action, *165*/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

"*Recalling also* the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, *166*/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

"*Recalling further* resolution 12 of the Seventh Congress *167*/ on the transfer of proceedings in criminal matters, in which the Committee on Crime Prevention and Control was requested to study this subject and to consider the possibility of formulating a model agreement in this area,

"*Acknowledging* the valuable contributions made by Governments, non-governmental organizations and individual experts to the drafting of the model treaty on the transfer of proceedings in criminal matters, in particular the International Expert Meeting on the United Nations and Law Enforcement, held under the auspices of the United Nations at Baden, Austria from 16 to 19 November 1987, the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting *168*/ and the regional preparatory meetings for the Eighth Congress,

"*Convinced* that the establishment of bilateral and multilateral arrangements for the transfer of proceedings in criminal matters will greatly contribute to the development of more effective international co-operation aimed at controlling crime,

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165/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

166/ *Ibid*., sect. B.

167/ *Ibid*., sect. E.

168/ A/CONF.144/IPM.5.

"*Conscious* of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights [169] and the International Covenant on Civil and Political Rights, [170]

"*Recognizing* the importance of the model treaty as an effective way of dealing with the complex aspects, consequences and modern evolution of transnational crime,

"1. *Adopts* the Model Treaty on the Transfer of Proceedings in Criminal Matters, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral or multilateral treaties aimed at improving co-operation in matters of crime prevention and criminal justice;

"2. *Invites* Member States, if they have not yet established treaty relations with other States in regard to transfer of proceedings in criminal matters, or if they wish to revise existing treaty relations, to take the Model Treaty into account whenever doing so;

"3. *Urges* Member States to strengthen international co-operation in criminal justice;

"4. *Also urges* Member States to inform the Secretary-General periodically of efforts undertaken to establish arrangements for the transfer of proceedings in criminal matters;

"5. *Requests* the Committee on Crime Prevention and Control to conduct periodic reviews of the progress attained in this field;

"6. *Requests* the Secretary-General to assist Member States, at their request, in the development of treaties on the transfer of proceedings in criminal matters and to report regularly thereon to the Committee.

"*Annex*

"MODEL TREATY ON THE TRANSFER OF PROCEEDINGS IN CRIMINAL MATTERS

"PREAMBLE

"The ______________________ and the ______________________

"*Desirous* of further strengthening international co-operation and mutual assistance in criminal justice, on the basis of the principles of respect for national sovereignty and jurisdiction and of non-interference in the internal affairs of States,

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[169] General Assembly resolution 217 A (III).

[170] General Assembly resolution 2200 A (XXI), annex.

"*Believing* that such co-operation should further the ends of justice, the social resettlement of offenders and the interests of the victims of crime,

"*Bearing in mind* that the transfer of proceedings in criminal matters contributes to effective administration of justice and to reducing conflicts of competence,

"*Aware* that the transfer of proceedings in criminal matters can help to avoid pre-trial detention and thus reduce the prison population,

"*Convinced*, therefore, that the transfer of proceedings in criminal matters should be promoted,

"*Have agreed* as follows:

"ARTICLE 1

"*Scope of application*

"1. When a person is suspected of having committed an offence under the law of a State which is a Contracting Party, that State may, if the interests of the proper administration of justice so require, request another State which is a Contracting Party to take proceedings in respect of this offence.

"2. For the purpose of applying this Treaty, the Contracting Parties shall take the necessary legislative measures to ensure that a request of the requesting State to take proceedings shall allow the requested State to exercise the necessary jurisdiction.

"ARTICLE 2

"*Channels of communications*

"A request to take proceedings shall be made in writing. The request, supporting documents and subsequent communication shall be transmitted through diplomatic channels, directly between the Ministries of Justice or any other authorities designated by the Parties.

"ARTICLE 3

"*Required documents*

"1. The request to take proceedings shall contain or be accompanied by the following information:

"(a) The authority presenting the request;

"(b) A description of the act for which transfer of proceedings is being requested, including the specific time and place of the offence;

"(c) A statement on the results of investigations which substantiate the suspicion of an offence;

"(d) The legal provisions of the requesting State on the basis of which the act is considered to be an offence;

"(e) A reasonably exact statement on the identity, nationality and residence of the suspected person.

"2. The documents submitted in support of a request to take proceedings shall be accompanied by a translation into the language of the requested State or into another language acceptable to that State.

"ARTICLE 4

"Certification and authentication

"Subject to national law and unless the Parties decide otherwise, a request to take proceedings and the supporting documents thereto, as well as the documents and other material supplied in response to such a request, shall not require certification or authentication. 171/

"ARTICLE 5

"Decision on the request

"The competent authorities of the requested State shall examine what action to take on the request to take proceedings in order to comply, as fully as possible, with the request under their own law, and shall promptly communicate their decision to the requesting State.

"ARTICLE 6

"Dual criminality

"A request to take proceedings can be complied with only if the act on which the request is based would be an offence if committed in the territory of the requested State.

171/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

"ARTICLE 7

"Grounds for refusal 172/

"If the requested State refuses acceptance of a request for transfer of proceedings, it shall communicate the reasons for refusal to the requesting State. Acceptance may be refused if:

"(a) The suspected person is not a national of or ordinary resident in the requested State;

"(b) The act is an offence under military law, which is not also an offence under ordinary criminal law;

"(c) The offence is in connection with taxes, duties, customs or exchange;

"(d) The offence is regarded by the requested State as being of a political nature.

"ARTICLE 8

"The position of the suspected person

"1. The suspected person may express to either State his or her interest in the transfer of the proceedings. Similarly, such interest may be expressed by the legal representative or close relatives of the suspected person.

"2. Before a request for transfer of proceedings is made, the requesting State shall, if practicable, allow the suspected person to present his or her views on the alleged offence and the intended transfer, unless that person has absconded or otherwise obstructed the course of justice.

"ARTICLE 9

"The rights of the victim

"The requesting and requested States shall ensure in the transfer of proceedings that the rights of the victim of the offence, in particular his or her right to restitution or compensation, shall not be affected as a result of the transfer. If a settlement of the claim of the victim has not been reached before the transfer, the requested State shall permit the representation of the claim in the transferred proceedings, if its law provides for such a possibility. In the event of the death of the victim, these provisions shall apply to his or her dependants accordingly.

172/ When negotiating on the basis of this Model Treaty, States may wish to add other grounds for refusal or conditions to the list in this section, relating, for example, to the nature or gravity of the offence, to the protection of fundamental human rights, or to considerations of public order.

"ARTICLE 10

"Effects of the transfer of proceedings on the requesting State
(ne bis in idem)

"Upon acceptance by the requested State of the request to take proceedings against the suspected person, the requesting State shall provisionally discontinue prosecution, except necessary investigation, including judicial assistance to the requested State, until the requested State informs the requesting State that the case has been finally disposed of. From that date on, the requesting State shall definitely refrain from further prosecution of the same offence.

"ARTICLE 11

"Effects of the transfer of proceedings on the requested State

"1. The proceedings transferred upon agreement shall be governed by the law of the requested State. When charging the suspected person under its law, the requested State shall make the necessary adjustment with respect to particular elements in the legal description of the offence. Where the competence of the requested State is based on the provision set forth in paragraph 2 of this Treaty, the sanction pronounced in that State shall not be more severe than that provided by the law of the requesting State.

"2. As far as compatible with the law of the requested State, any act with a view to proceedings or procedural requirements performed in the requesting State in accordance with its law shall have the same validity in the requested State as if the act had been performed in or by the authorities of that State.

"3. The requested State shall inform the requesting State of the decision taken as a result of the proceedings. To this end a copy of any final decision shall be transmitted to the requesting State upon request.

"ARTICLE 12

"Provisional measures

"When the requesting State announces its intention to transmit a request for transfer of proceedings, the requested State may, upon a specific request made for this purpose by the requesting State, apply all such provisional measures, including provisional detention and seizure, as could be applied under its own law if the offence in respect of which transfer of proceedings is requested had been committed in its territory.

"ARTICLE 13

"The plurality of criminal proceedings

"When criminal proceedings are pending in two or more States against the same suspected person in respect of the same offence, the States concerned shall conduct consultations to decide which of them alone should continue the proceedings. An agreement reached thereupon shall have the consequences of a request for transfer of proceedings.

"ARTICLE 14

"Costs

"Any costs incurred by a Contracting Party because of a transfer of proceedings shall not be refunded, unless otherwise agreed by both the requesting and requested States.

"ARTICLE 15

"Final provisions

"1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

"2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of ratification are exchanged.

"3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

"4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

"In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

________________________ ________________________

Done at __________ on ____________ in the _________ and ____________
languages (both) texts being equally authentic."
(all)

Decision 11/121. Model treaty on the transfer of supervision of offenders conditionally sentenced or conditionally released*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control, having considered the proposed model treaty on the transfer of supervision of offenders conditionally sentenced or conditionally released (E/AC.57/1990/5/Add.5, draft resolution IV), decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 7 (topic V) of its provisional agenda:

"Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Bearing in mind* the Milan Plan of Action, 173/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

"*Bearing in mind also* the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 174/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

"*Recalling* resolution 13 of the Seventh Congress, 175/ on the transfer of supervision of foreign offenders who have been conditionally sentenced or conditionally released, in which the Committee on Crime Prevention and Control was requested to study this subject and to consider the possibility of formulating a model treaty in this area,

"*Acknowledging* the valuable contributions made by Governments, non-governmental organizations and individual experts to the drafting of the model treaty on the transfer of supervision of offenders conditionally sentenced or conditionally released, in particular the International Expert Meeting on the United Nations and Law Enforcement, held under the auspices of the United Nations at Baden, Austria, from 16 to 19 November 1987, the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting 176/ and the regional preparatory meetings for the Eighth Congress,

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* For the discussion, see chap. IV.

173/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

174/ *Ibid*., sect. B.

175/ *Ibid*., sect. E.

"Convinced that the establishment of bilateral and multilateral arrangements for transfer of supervision of offenders conditionally sentenced or conditionally released will greatly contribute to the development of more effective international co-operation in penal matters,

"Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 177/ and the International Covenant on Civil and Political Rights, 178/

"1. Adopts the Model Treaty on Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral or multilateral treaties aimed at improving co-operation in matters of crime prevention and criminal justice;

"2. Invites Member States, if they have not yet established treaty relations with other States in the area of extradition, or if they wish to revise existing treaty relations, to take into account the Model Treaty whenever doing so;

"3. Urges all Member States to strengthen international co-operation in criminal justice;

"4. Also urges Member States to inform the Secretary-General periodically of efforts undertaken to establish arrangements on the transfer of supervision of offenders conditionally sentenced or conditionally released;

"5. Requests the Committee on Crime Prevention and Control to conduct periodic reviews of the progress attained in this field;

"6. Requests the Secretary-General to assist Member States, at their request, in the development of treaties on the transfer of supervision of offenders conditionally sentenced or conditionally released and to report regularly thereon to the Committee.

176/ A/CONF.144/IPM.5.

177/ General Assembly resolution 217 A (III).

178/ General Assembly resolution 2200 A (XXI), annex.

"Annex

"MODEL TREATY ON THE TRANSFER OF SUPERVISION OF OFFENDERS, WHO HAVE BEEN CONDITIONALLY SENTENCED OR CONDITIONALLY RELEASED

"The ______________________ and the ______________________

"Desirous of further strengthening international co-operation and mutual assistance in criminal justice, on the basis of the principles of respect for national sovereignty and jurisdiction and of non-interference in the internal affairs of States,

"Believing that such co-operation should further the ends of justice, the social resettlement of sentenced persons and the interest of the victims of crime,

"Bearing in mind that the transfer of supervision of offenders conditionally sentenced or conditionally released can contribute to an increase in the use of alternatives to imprisonment,

"Aware that supervision in the home country of the offender rather than enforcement of the sentence in a country where the offender has no roots also contributes to an earlier and more effective reintegration into society,

"Convinced, therefore, that the social rehabilitation of offenders and the increased application of alternatives to imprisonment would be promoted by facilitating the supervision of conditionally sentenced or conditionally released offenders in their State of ordinary residence,

"Have agreed as follows:

"ARTICLE 1

"Scope of application

"1. This Treaty shall be applicable, if, according to a final court decision, a person has been found guilty of an offence and has been:

"(a) Placed on probation without sentence having been pronounced;

"(b) Given a suspended sentence involving deprivation of liberty;

"(c) Given a sentence, the enforcement of which has been modified (parole) or conditionally suspended, in whole or in part, either at the time of the sentence or subsequently.

"2. The State where the decision was taken (sentencing State) may request another State (administering State) to take responsibility for applying the terms of the decision (transfer of supervision).

"ARTICLE 2

"Channels of communications

"A request for the transfer of supervision shall be made in writing. The request, supporting documents and subsequent communication shall be transmitted through diplomatic channels, directly between the Ministries of Justice or any other authorities designated by the Parties.

"ARTICLE 3

"Required documents

"1. A request for the transfer of supervision shall contain information on the identity, nationality and residence of the sentenced person. The request shall be accompanied by the original or a copy of any court decision referred to in the preceding provision and a certificate that this decision is legally binding (*res judicata*).

"2. The documents submitted in support of a request for transfer of supervision shall be accompanied by a translation into the language of the requested State or into another language acceptable to that State.

"ARTICLE 4

"Certification and authentication

"Subject to national law and unless the Parties decide otherwise, a request for transfer of supervision and the supporting documents thereto, as well as the documents and other material supplied in response to such a request, shall not require certification or authentication. 179/

"ARTICLE 5

"Decision on the request

"The competent authorities of the administering State shall examine what action to take on the request for supervision in order to comply, as fully as possible, with the request under their own law, and shall promptly communicate their decision to the sentencing State.

179/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

"ARTICLE 6

"Dual criminality

"A request for transfer of supervision can be complied with only if the act on which the request is based would constitute an offence if committed in the territory of the administering State.

"ARTICLE 7

"Grounds for refusal [180]

"If the administering State refuses acceptance of a request for transfer of supervision, it shall communicate the reasons for refusal to the sentencing State. Acceptance may be refused where:

"(a) The sentenced person is not an ordinary resident in the administering State;

"(b) The act is an offence under military law, which is not also an offence under ordinary criminal law;

"(c) The offence is in connection with taxes, duties, customs or exchange;

"(d) The offence is regarded by the administering State as being of a political nature;

"(e) The administering State, under its own law, can no longer carry out the supervision or enforce the sanction in the event of revocation because of lapse of time.

"ARTICLE 8

"The position of the sentenced person

"Whether sentenced or standing trial, a person may express to the sentencing State his or her interest in a transfer of supervision and his or her willingness to fulfil any conditions to be imposed. Similarly, such interest may be expressed by his or her legal representative or close relatives. Where appropriate, the Contracting States shall inform the offender or his or her close relatives of the possibilities under this Treaty.

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[180] When negotiating on the basis of this Model Treaty, States may wish to add other grounds for refusal or conditions to the list, relating in this section, for example, to the nature or gravity of the offence, to the protection of fundamental human rights, or to considerations of public order.

"ARTICLE 9

"The rights of the victim

"The sentencing State and the administering State shall ensure in the transfer of supervision that the rights of the victims of the offence, in particular his or her rights to restitution or compensation, shall not be affected as a result of the transfer. In the event of the death of the victim, this provision shall apply to his or her dependants accordingly.

"ARTICLE 10

"The effects of the transfer of supervision on the sentencing State

"The acceptance by the administering State of the responsibility for applying the terms of the decision rendered in the sentencing State shall extinguish the competence of the latter State to enforce the sentence.

"ARTICLE 11

"The effects of the transfer of supervision on the administering State

"1. The supervision transferred upon agreement and the subsequent procedure shall be carried out in accordance with the law of the administering State. That State alone shall have the right of revocation. That State may, to the extent necessary, adapt to its own law the conditions or measures prescribed, provided that such conditions or measures are, in terms of their nature or duration, not more severe than those pronounced in the sentencing State.

"2. If the administering State revokes the conditional sentence or conditional release, it shall enforce the sentence in accordance with its own law without, however, going beyond the limits imposed by the sentencing State.

"ARTICLE 12

"Review, pardon and amnesty

"1. The sentencing State alone shall have the right to decide on any application to reopen the case.

"2. Each Party may grant pardon, amnesty or commutation of the sentence in accordance with the provisions of its Constitution or other laws.

"ARTICLE 13

"Information

"1. The Contracting Parties shall keep each other informed, in so far as it is necessary, of all circumstances likely to affect measures of supervision or enforcement in the administering State. To this end they shall transmit to each other copies of any relevant decisions in this respect.

"2. After expiration of the period of supervision, the administering State shall provide to the sentencing State, at its request, a final report concerning the supervised person's conduct and compliance with the measures imposed.

"ARTICLE 14

"Costs

"Supervision and enforcement costs incurred in the administering State shall not be refunded, unless otherwise agreed by both the sentencing State and the administering State.

"ARTICLE 15

"Final provisions

"1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

"2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of ratification are exchanged.

"3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

"4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

"In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

______________________________ ______________________________

Done at ____________________ on ________________ in the _______________
and _____ languages (both) texts being equally authentic."
(all)

Decision 11/122. Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice*

At its 12th meeting, on 16 February 1990, the Committee on Crime Prevention and Control decided to recommend that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the following draft resolution for action under item 3 (topic I) of its provisional agenda:

"Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

"Recommends to the General Assembly the adoption of the following draft resolution:

"The General Assembly,

"Recalling the responsibility assumed by the United Nations in the field of crime prevention and criminal justice in pursuance of Economic and Social Council resolution 155 C (VII) of 13 August 1948 and General Assembly resolution 415 (V) of 1 December 1950,

"Recalling also General Assembly resolutions 40/32 of 29 November 1985, 41/107 of 4 December 1986, 42/59 of 30 November 1987 and 43/99 of 8 December 1988, and Economic and Social Council resolutions 1986/11 of 21 May 1986, 1987/53 of 28 May 1987 and 1988/44 of 27 May 1988,

"Recognizing the increasingly transnational character and dimensions of crime and that the new, organized and sophisticated forms of crime call for concerted international action,

"Aware of the high human and material costs of crime and aware that its consequences involve a substantial drain on the economies of Member States and loss and damage to victims of crime,

"Convinced of the urgent need for more effective and responsive international mechanisms to assist countries and facilitate joint strategies in areas of mutual concern,

"Noting that the Committee on Crime Prevention and Control, by resolution 10/1 of 31 August 1988, requested its Chairman to appoint a sub-committee to provide an overview of the magnitude of the problem of crime from economic, criminological, social and juridical aspects, to assess the most efficient means of stimulating practical international action in support of Member

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* For the discussion, see chap. V.

States, and, in particular, the role of the United Nations in that regard and to make recommendations to the Committee, at its eleventh session, concerning the most effective mechanisms for the implementation of the conclusions of the overview and noting that a report on these matters was prepared by a sub-committee appointed by the Chairman and was considered, reviewed, revised and approved by the Committee at its eleventh session, 181/

"*Noting also* that the General Assembly, in its resolution 44/72 of 8 December 1989, invited the Committee on Crime Prevention and Control, at its eleventh session, to give priority attention to the conclusions and recommendations of its sub-committee and to consider their appropriate follow-up by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"*Noting with appreciation* the report of the Committee on Crime Prevention and Control entitled 'The need for the creation of an effective international crime and justice programme' 181/ and its endorsement by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as the deliberations of the Congress thereon,

"1. *Requests* the Secretary-General, in consultation with the Chairman of the Committee on Crime Prevention and Control, to arrange for an expert working group to be established, which, subject to the availability of extrabudgetary funds, would further elaborate the proposed international crime and justice programme referred to in the above-mentioned report of the Committee, as well as the mechanisms required for implementing the proposed programme;

"2. *Invites* Member States to convene a summit or ministerial meeting to consider the proposed programme and any convention or other international instrument required to develop its content and structure, and to consider whether the programme should be placed within the framework of a major unit of the Secretariat or within a new United Nations agency;

"3. *Further invites* Member States, in consultation with the Secretary-General and the Chairman of the Committee on Crime Prevention and Control, to make the necessary preparations for such a meeting;

"4. *Requests* the Secretary-General to take immediate action, pending the convening of a summit or ministerial meeting, to consider the conversion of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs into a new, major unit of the United Nations Secretariat with an appropriate programme, and to report thereon to the summit or ministerial meeting and to the Committee on Crime Prevention and Control at its twelfth session;

"5. *Invites* Member States to provide active support and assistance for the development of an international crime and justice programme and of viable mechanisms for implementing it."

181/ E/1990/31/Add.1.

D. Resolutions of the Committee brought to the attention of the Council

4. The following resolutions, adopted by the Committee at its 11th and 12th meetings, on 16 February 1990, are brought to the attention of the Council:

Resolution 11/1. World foundation on crime control and assistance to victims*

The Committee on Crime Prevention and Control,

Concerned about the growth of crime in many countries,

Concerned also about the growing threat posed by new forms of crime, such as illicit drug trafficking, terrorism, international fraud and other types of organized crime,

Noting the willingness of Member States to unite their efforts in crime prevention and control,

Noting also the inadequacy of existing financial resources for combating crime at the international level,

Recalling Economic and Social Council resolution 1989/68 of 24 May 1989 and resolution 10/1, adopted by the Committee on Crime Prevention and Control on 31 August 1988,

1. *Recommends* that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders give favourable consideration to the establishment, under the auspices of the United Nations, of a world foundation on crime control and assistance to victims;

2. *Recommends also* that the goals of the world foundation on crime control and assistance to victims should be:

(a) To identify and mobilize financial resources in support of the implementation of international crime control programmes;

(b) To raise the awareness of the international community to crime situations and main trends of crime and issues involving the victims, including the training of appropriate personnel;

(c) To advocate the expansion of initiatives contributing to effective crime prevention;

(d) To provide financial assistance to Member States that lack adequate resources for the implementation of crime control programmes;

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* For the discussion, see chap. II.

(e) To fund scientific research and development of innovative and effective technical means for crime prevention and control and to provide assistance to regional and interregional institutes for crime prevention and the treatment of offenders;

(f) To provide financial assistance to victims of international crimes;

3. Recommends that the sources of the world foundation on crime control and assistance to victims should be as follows:

(a) Voluntary contributions from States;

(b) Voluntary donations from non-governmental organizations, the private sector and individuals;

(c) Proceeds from charity activities in support of the foundation;

(d) Income from the foundation's publications, which might include:

  (i) Publication on a regular basis of compilations of United Nations standards and norms and international instruments on crime prevention and control;

  (ii) Publication on an annual basis of statistical data on crime situations throughout the world;

  (iii) Publication of the results and outcome of the scientific research work carried out in the field of crime control;

  (iv) Publication of materials on innovative methods and techniques used at the national and international levels for crime prevention and control;

4. Further recommends that the board of trustees of the world foundation on crime control and assistance to victims should be appointed by the Committee on Crime Prevention and Control and might include the heads of the regional and interregional institutes for crime prevention and the treatment of offenders.

Resolution 11/2. Continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*

The Committee on Crime Prevention and Control,

Conscious of its responsibilities as the preparatory body for the United Nations congresses on the prevention of crime and the treatment of offenders,

Recalling Economic and Social Council decision 1988/146 of 27 May 1988,

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* For the discussion, see chap. IV.

Further recalling that many members of the Committee, at the tenth session, expressed gratitude to the Government of Cuba for its invitation to act as host to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Appreciating the success of all the preparatory activities carried out to ensure the success of the Eighth Congress, scheduled to take place at Havana from 27 August to 7 September 1990,

Bearing in mind the serious resource constraints affecting the United Nations crime prevention and criminal justice programme in the face of its growing responsibilities, which constraints are making it difficult to implement effective technical co-operation projects and other elements of the work programme of the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat,

Recalling General Assembly resolution 44/72 of 8 December 1989,

1. *Expresses its conviction* that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders will make a major contribution both to a better understanding of the problems related to crime prevention and criminal justice and to finding solutions to them;

2. *Welcomes* Economic and Social Council decision 1989/134 of 24 May 1989, in which the Council decided to accept the offer of the Government of Cuba to act as host to the Eighth Congress;

3. *Calls upon* Member States, specialized agencies, intergovernmental and non-governmental organizations, as well as appropriate professional organizations and individual experts, to actively participate in the Eighth Congress;

4. *Invites* Member States to make financial contributions to the United Nations Trust Fund for Social Defence during the Eighth Congress, including contributions earmarked for specific technical co-operation projects and other elements of the work programme of the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat;

5. *Decides* to include in the provisional agenda of the Eighth Congress, under item 3 (topic I), a one-day pledging session so that such financial contributions to the United Nations Trust Fund for Social Defence may be made;

6. *Requests* the Secretary-General to ensure that the substantive and organizational work of the Eighth Congress, including a strengthened information programme, is adequate for its successful outcome.

Resolution 11/3. Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice*

The Committee on Crime Prevention and Control,

Recalling the responsibility assumed by the United Nations in the field of crime prevention and criminal justice in pursuance of Economic and Social Council resolution 155 C (VII) of 13 August 1948 and General Assembly resolution 415 (V) of 1 December 1950,

Recalling also Economic and Social Council resolutions 1986/11 of 21 May 1986, 1987/53 of 28 May 1987, 1988/44 of 27 May 1988 and 1989/68 of 24 May 1989 and General Assembly resolutions 40/32 of 29 November 1985, 41/107 of 4 December 1986, 42/59 of 30 November 1987, 43/99 of 8 December 1988 and 44/71 and 44/72 of 8 December 1989,

Profoundly concerned about the escalation in crime, which is impeding sustained development, undermining social peace and well-being and threatening the enjoyment of basic human rights and freedoms,

Aware of the high human and material costs of crime and its consequences, which drain national economies and exacerbate financial crises,

Alarmed by the increasingly transnational character and dimensions of crime, which in its new organized and sophisticated forms has outpaced the capability of individual States to counteract and calls for concerted international action,

Convinced of the urgent need for a more effective and responsive international mechanism to assist countries and facilitate joint strategies in areas of mutual concern,

Bearing in mind the express wish of Member States to strengthen the capacity of the United Nations to carry out its important responsibilities in the field of crime prevention and criminal justice and the new mandates and functions entrusted to it,

Recalling its resolution 10/1 of 31 August 1988 providing for the establishment of a sub-committee of the Committee on Crime Prevention and Control to review the functioning and programme of work of the United Nations in crime prevention and criminal justice,

Welcoming the report of the sub-committee contained in a note by the Secretary-General (E/AC.57/1990/6), which presents a comprehensive analysis of the situation and the requirements for effective international action in the field of crime prevention and criminal justice,

Having considered and reviewed the report of the sub-committee and having further revised the section on the development of an effective international crime and justice programme,

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* For the discussion, see chap. V.

1. *Unanimously approves* the report of the sub-committee, as revised, which has been issued as a report of the Committee on Crime Prevention and Control entitled "The need for the creation of an effective international crime and justice programme" (E/AC.57/1990/L.32); 182/

2. *Requests* the Secretary-General to transmit the report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

3. *Recommends* that the Eighth Congress should consider the report under item 3 (topic I) of its provisional agenda;

4. *Recommends also* that the Eighth Congress, after considering that report, should endorse its recommendations and propose the necessary action for their implementation, considering in particular:

(a) The formation of an expert working group to further elaborate the proposed programme and the mechanisms required for its implementation;

(b) The convening of a summit or ministerial meeting to consider the proposed programme and any international instruments required to develop its content and structure;

(c) The organizational structure required for the proposed programme, including the conversion of the Crime Prevention and Criminal Justice Branch into a major unit of the Secretariat or the establishment of a new United Nations agency.

182/ Subsequently issued as E/1990/31/Add.1.

Chapter II

PROGRAMMING AND OTHER MATTERS

1. The Committee considered agenda item 3 at the 1st, 2nd, 3rd, 10th and 11th meetings, on 5, 6, 12 and 16 February 1990. It had before it the following documents:

(a) Report of the Secretary-General on the progress made in United Nations activities in crime prevention and control (E/AC.57/1990/2);

(b) Note by the Secretary-General on the nomination of members of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute (E/AC.57/1990/7);

(c) Excerpts from the programme budget for the biennium 1990-1991, from the report of the Committee on Programme and Co-ordination on its twenty-ninth session and from the draft medium-term plan for the period 1992-1997 (E/AC.57/1990/CRP.2).

2. The Director of the Social Development Division of the Centre for Social Development and Humanitarian Affairs, United Nations Office at Vienna, introduced the agenda item. After highlighting the most important results of the United Nations programme in crime prevention and control, including the development of criminal justice data bases and the United Nations crime and justice information network, he stressed the importance of technical co-operation activities. He also emphasized the crucial role that the regional and interregional institutes had played in contributing to the successful implementation of the United Nations crime prevention and criminal justice programme. That role had increased in recent years, and its fulfilment was greatly facilitated by the annual Joint Meeting on Programme Co-ordination, which had been held at the Arab Security Studies and Training Centre. However, more voluntary funds were needed to face the growing threat of crime.

3. The participants welcomed the Secretary-General's report (E/AC.57/1990/2), noting with appreciation the number and diversity of tasks performed by the Crime Prevention and Criminal Justice Branch in spite of the inadequate level of its resources and the increasing burden posed by the demanding and multiple activities involved in the preparations for the Eighth Congress. Although the performance of the Branch was certainly outstanding, the financial constraints could not but limit the impact of the programme on efforts to fight national and transnational criminality, which was becoming steadily more sophisticated and widespread. Unfortunately, the repeated recommendations of the Committee, which had been endorsed by the Economic and Social Council and the General Assembly, calling for the allocation of resources to the Branch commensurate with the range and significance of its tasks, had gone largely unheeded in the financial organs. The current situation indicated that there should be some restructuring of United Nations activities and that an innovative approach should be adopted.

4. In that connection, it was indicated that the United Nations budget for crime prevention and criminal justice activities was too small a fraction of the budget for global social issues, under which it was included. The Committee should therefore not merely take note of the report of the Secretary-General, but should add to it a clear expression of its profound concern about the difficult

constraints under which the programme had to operate. The Committee should also explicitly indicate a set of precise recommendations in that respect in order to enable the Economic and Social Council to take appropriate action. It was also suggested that the report of the Committee, and all issues on crime prevention and criminal justice, should be considered as a separate item of the agenda of the Council.

5. The view was expressed that the gap between mandates and resources, as well as the disparity between needs and the possibilities for meeting them, might indicate that perhaps Governments had not emphasized their preoccupation with crime issues sufficiently clearly, though they had stated their wish to promote effective action against the various forms of crime. The United Nations could not be expected to perform the functions in crime prevention and criminal justice that the international community had assigned to it with the miniscule resources allocated to the programme. Clearly, the political will had to express itself more concretely so that the capacity of the United Nations could be reinforced. Governments had to realize that the ingenuity and resourcefulness of the Secretariat could not, in the long run, overcome the current handicaps. The difficulties faced by the programme were evident in the decrease of two percentage points in the resources allocated to it, a reduction that had occurred between the biennium 1988-1989 and the biennium 1990-1991, as had been noted by the Committee on Programme and Co-ordination.

6. Although the problem of crime was complex, there was a sense that it posed a danger and a threat. More had to be known about the nature and extent of the problem and how it was being addressed. Clearly, there were serious problems, such as drugs, terrorism, international fraud, environmental offences, abuse of power and systematic use of repression. Without over-dramatizing the issue, which could lead to an over-reaction, there was an obligation to take crime seriously.

7. There were four main areas on which the United Nations had focused its activities: the improvement of international co-operation by model instruments; the exchange of information, especially in the areas of victims and crime prevention; the promotion of technical co-operation; and the maintenance of standards of human rights and integrity. To cover them properly with the required high quality of work was difficult without adequate resources and the necessary political will.

8. The world was witnessing dynamic changes that were affecting everything, including crime prevention. The police and judicial systems were being radically restructured in various countries. Rising crime rates demanded not only new approaches in crime prevention, but also a wider range of legislation and increased international co-operation for crime prevention and control. The exchange of information through the United Nations was essential to that task.

9. Many experts and observers pointed out that technical co-operation in crime prevention and criminal justice was of paramount importance for developing countries. The intensification of that co-operation was indispensable, since many countries were totally or largely unable to implement effective crime prevention policies and strategies due to an acute shortage of material and trained human resources. It was undeniable that some modest progress had been made. It was also undeniable, however, that the Secretariat was hampered in carrying out even a fraction of the needed technical co-operation projects. It was extremely frustrating to realize, on the one hand, how much could be accomplished if funds

were available, and on the other, to observe how little could be done because of the limitations. Additional voluntary funds would obviously make an enormous difference, giving many countries the chance they so urgently needed.

10. Developing countries had to struggle against such handicaps as illiteracy, lack of skilled personnel, absence of training opportunities and levels of remuneration so low that they facilitated widespread corruption. To that had to be added the inadequate rates of economic development, mainly caused by foreign indebtedness, which manifested themselves, inter alia, in high rates of unemployment, particularly among juveniles, prostitution and large numbers of street children, a group highly vulnerable to criminogenic influences. More recently, the danger of the acquired immunodeficiency syndrome (AIDS) and the victimization of entire countries by environmental crimes, such as the dumping of toxic wastes, were further worsening the situation.

11. It was felt that developed countries should recognize the desperate need for technical co-operation and should contribute in a manner commensurate with the articulated needs, realizing that, by assisting developing countries in their struggle against crime, they would eventually be helping their own populations. Such phenomena as the production of drugs for the illegal market and offences such as money-laundering flourished in developing countries because, lacking the necessary resources, they were hardly in a position to implement effective crime control policies.

12. In addition, the assistance given should take into consideration the socio-economic context of each country. For example, some of the assistance provided for the control of illicit drug production had not taken into consideration other closely related needs, such as legal reform or police training, not to mention overall socio-economic development. That inadequate emphasis on only one element of the total situation had led, as could have been expected, to quite limited and possibly only short-term successes.

13. The Committee should look at all possible structures of technical co-operation that could be better integrated internationally, recommending that Governments should allocate a fixed yearly amount specifically for technical co-operation projects and consultancies in crime prevention and criminal justice, to be implemented by the Secretariat in co-operation with the United Nations institutes.

14. It was also asserted that the advisory services had so far provided considerable assistance to many countries. The interregional adviser had completed many missions, and projects had been implemented as part of the advisory services, with the assistance of Member States. In addition, since international entities were becoming more and more aware of the importance of crime prevention and criminal justice, they might be more inclined to support some projects financially, although there was insufficient appreciation of the relevance and importance of crime prevention and control for the achievement of development goals. Due to the financial limitations under which the advisory services were currently functioning, their operation was clearly insufficient and could not meet the rapidly growing demand for them. The activities of the single interregional adviser had to be strengthened, and there was an urgent need for those activities to be complemented by regional advisers.

15. It was pointed out that there appeared to be a widespread taboo against using development funds for crime prevention and criminal justice projects. That

attitude was probably due to the failure to recognize how deleterious crime could be for the development efforts of a country. Since criminality inevitably consumed scarce resources and damaged the morale of the citizenry, developing countries were being left with tremendous difficulties not only in guaranteeing law and order, but also in ensuring the proper protection of basic human rights. It was useless to talk about general principles of justice if judicial systems were under violent attack by national and transnational criminals. Unless that taboo were discarded, very little of significance was likely to be achieved.

16. With respect to the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, the Committee took note of the progress made in its implementation. However, the rate of response, particularly from developing countries, was unsatisfactory. Many responses, moreover, contained gaps and, in some cases, appeared inaccurate. Although the collaboration of the institutes had helped a great deal, the results had fallen painfully short of the ideal mark.

17. In that connection, several participants indicated that developing countries had particular difficulties in filling out the questionnaire, since it was far from easy for them to provide reliable information covering their total territory. In a number of cases, the information did not exist at all. And it appeared that the relevant information, particularly that of a statistical nature, could not be collected without some form of technical co-operation. Only through technical co-operation could the ability of developing countries to respond in a satisfactory manner to the survey be improved.

18. The Committee felt that considerable reflection and work were needed to improve the survey. The questionnaire could perhaps be simplified. Since the information requested was often scattered throughout different offices, the question was raised as to the manner of obtaining the necessary information. Diplomatic channels alone did not appear the most effective means for that purpose. Consequently, the assistance of the local office of the United Nations Development Programme (UNDP) and of national correspondents, as well as of the institutes, should be sought. Further, a simplified version of the questionnaire could be circulated every year, so that responding to it could become a routine activity within the relevant offices.

19. Technical co-operation, particularly in the training of personnel, was a must. Funding alone, however, was no guarantee of success. The complexity of the task created difficulties even for developed countries with a long tradition in the collection of national statistics. Often, the problem lay in the identification of the source for certain types of information. Consequently, perfectionism should be avoided and the goal should be pragmatically defined as the widest possible exchange of information.

20. The activities of the institutes were praised extensively by the Committee members. The efforts of the institutes to co-ordinate their activities and their assistance to the Secretariat were indeed impressive. Moreover, their research and training activities had been expanded considerably. None the less, their relations with the Crime Prevention and Criminal Justice Branch should be reinforced and the Branch's overall supervision of their activities strengthened in order to ensure improved co-ordination.

21. The Committee welcomed the establishment of the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders and expressed the wish that the Institute would make important contributions to the struggle against crime in the region.

22. The Committee took note of the extract from the draft medium-term plan, contained in document E/AC.57/1990/CRP.2.

Action taken by the Committee

World foundation on crime prevention and assistance to victims

23. At its 10th meeting, on 12 February 1990, Vasily P. Ignatov (Union of Soviet Socialist Republics), on behalf of D. Cotic (Yugoslavia), D. Faulkner (United Kingdom of Great Britain and Northern Ireland), R. L. Gainer (United States of America), A. A. A. Shiddo (Sudan), M. Shikita (Japan) and A. L. Tamini (Argentina), introduced a draft resolution (E/AC.57/1990/L.8) entitled "World foundation on crime prevention and assistance to victims", which read as follows:

"The Committee on Crime Prevention and Control,

"Concerned with the growth of criminality in many countries,

"Concerned also with the growing threat posed by new forms of criminality, such as illicit drug trafficking, terrorism, international fraud and other types of organized crime,

"Noting the willingness of Member States to unite their efforts in crime prevention and control,

"Noting also the inadequacy of existing financial resources for combating crime at the international level,

"Recalling resolution 1989/68 of 24 May 1989 adopted by the Economic and Social Council as well as resolution 10/1 adopted by the Committee on Crime Prevention and Control at its tenth session.

"1. Recommends to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders that favourable consideration should be given to the establishment, under the auspices of the United Nations, of a world foundation on crime prevention and assistance to victims;

"2. Recommends also that the goals of the world foundation on crime prevention and assistance to victims should be as follows:

"(a) To identify and mobilize financial resources in support of the implementation of international crime control programmes;

"(b) To raise the awareness of the international community to crime situations and main trends of criminality [and issues involving the victims];

"(c) To advocate the expansion of initiatives contributing to effective crime prevention [and the protection and support of victims];

"(d) To provide financial assistance to Member States not having adequate resources for the implementation of crime control programmes;

"(e) To fund scientific research and development of innovative effective technical means for crime prevention and control;

"(f) To provide financial assistance to victims of international crimes;

"3. Recommends that the sources of the world foundation on crime prevention and assistance to victims should be as follows:

"(a) Voluntary contributions from States;

"(b) Voluntary donations from non-governmental organizations, the private sector and individuals;

"(c) Charity activities in support of the foundation;

"(d) Income from the foundation's publications, which might include:

"(i) Publication on a regular basis of compilations of United Nations standards and norms and international instruments on crime prevention and control;

"(ii) Publication on an annual basis of statistical data on crime situations throughout the world;

"(iii) Publication of the results and outcome of the scientific research work carried out in the field of crime control;

"(iv) Publication of materials on innovative ways and techniques used at the national and international levels for crime prevention and control;

"4. Furtner recommends that the board of trustees of the world foundation on crime prevention and assistance to victims should be appointed by the Committee on Crime Prevention and Control and should include heads of the regional and interregional institutes for crime prevention and the treatment of offenders."

24. Subsequently, S. A. Rozès (France), Montero Castro (Costa Rica), V. Ramanitra (Madagascar) and J. Polimeni (Italy) joined in sponsoring the draft resolution.

25. At the same meeting, statements were made by V. P. Ignatov (Union of Soviet Socialist Republics), A. A. A. Shiddo (Sudan), R. L. Gainer (United States of America), S. A. Rozès (France), F. Murad (Saudi Arabia) and M. A. Sánchez-Méndez (Colombia).

26. At the 11th meeting, on 16 February, V. P. Ignatov, on behalf of D. Cotic (Yugoslavia), D. Faulkner (United Kingdom of Great Britain and Northern Ireland), R. L. Gainer (United States of America), J. A. Montero Castro (Costa Rica), J. Polimeni (Italy), V. Ramanitra (Madagascar), S. A. Rozès (France), A. A. A. Shiddo (Sudan), M. Shikita (Japan) and A. L. Tamini (Argentina), introduced a revised draft resolution (E/AC.57/1990/L.8/Rev.1) entitled "World foundation on crime control and assistance to victims".

27. At the same meeting, the Committee adopted the revised draft resolution (see chap. I, sect. D, Committee resolution 11/1).

United Nations surveys of criminal justice

28. At the 10th meeting, on 12 February, D. Faulkner (United Kingdom of Great Britain and Northern Ireland) introduced a draft resolution (E/AC.57/1990/L.10) entitled "United Nations surveys of criminal justice statistics". Subsequently, R. L. Gainer (United States of America), J. A. Montero Castro (Costa Rica), F. Murad (Saudi Arabia), B. Pandi (Central African Republic), S. A. Rozès (France) and A. L. Tamini (Argentina) joined in sponsoring the draft resolution.

29. Statements were made by A. A. A. Shiddo (Sudan) and F. Murad (Saudi Arabia).

30. At the same meeting, R. L. Gainer (United States of America) orally revised the draft resolution by inserting between the second and third preambular paragraphs a new preambular paragraph reading as follows:

> "Recognizing also that the ongoing work on computerization of crime and justice matters by Member States and the United Nations will enhance the potential of Member States to respond to such surveys".

31. At the same meeting, the Committee approved the draft resolution, as orally revised, and recommended its adoption to the Economic and Social Council (see chap. I, sect. A, draft resolution I).

Technical co-operation in the field of crime prevention and criminal justice

32. At the 10th meeting, on 12 February, B. Pandi (Central African Republic), on behalf of S. Nour (Algeria) and V. Ramanitra (Madagascar), introduced a draft resolution (E/AC.57/1990/L.11) entitled "Technical co-operation in the field of crime prevention and criminal justice", which read as follows:

> "The Economic and Social Council,
>
> "Considering that one of the objectives proclaimed in the United Nations Charter is to bring about international co-operation in developing and encouraging respect for human rights and fundamental liberties for all persons, without distinction as to race, sex, language or religion,
>
> "Recalling, on the one hand, the Universal Declaration of Human Rights and the international covenants that relate thereto, and, on the other, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in resolution 3453 (XXX) of 9 December 1975,
>
> "Convinced that, within the framework of development, crime prevention and criminal justice should be guided by respect for the principles proclaimed in the Caracas Declaration and the Milan Plan of Action, the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, and other pertinent instruments adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in particular, the body of minimum rules for the treatment of prisoners,

"*Convinced also* that, thanks to a concerted effort in all areas, the practical application of these principles should be encouraged, with full respect for human rights, fundamental liberties and the sovereignty of each Member State,

"*Considering* that a concerted intervention to this end, even in matters regarded as falling under the national sovereignty of a State, cannot be regarded as constituting interference in the internal affairs of that State,

"*Recalling* that the treatment of prisoners is generally regarded as an element of national sovereignty of the Member States,

"*Further considering* that the deteriorating socio-economic situation in certain countries is challenging the international community to come to the aid of these countries, in all areas, within the framework of freely concluded bilateral or multilateral conventions,

"1. *Recommends that*:

"(a) The international community, working through bilateral or multilateral conventions, provide the Member States requesting it with the necessary assistance, in all areas, specifically those contributing to the establishment of the infrastructure required for crime prevention and the administration of criminal justice;

"(b) Such action, freely accepted and embodying the principle of respect for and protection of human rights, be regarded as constituting support for that principle and not as representing interference in the affairs or a violation of its sovereignty;

"2. *Invites* the Member States to increase their co-operation in crime prevention and control by expanding their activities in this area;

"3. *Requests* the Secretary-General of the United Nations to inform the Committee on Crime Prevention and Control at its twelfth session on the measures taken by the Member States to achieve the objectives of this resolution;

"4. *Recommends* accordingly that the international community provide supplementary financial and technical support so as to help the member countries in their efforts to identify, analyse, follow up and evaluate crime trends, to formulate crime prevention and control strategies that are effective and in harmony with their national development plans, priorities and objectives, and to implement criminal justice policies with a view to ensuring respect for United Nations principles and standards in this area;

"5. *Invites* the Member States to include crime prevention and criminal justice policies in their planning process, particularly when formulating national development plans, so as to reduce the human, social and economic costs associated with criminality and delinquency, and to allocate sufficient funds to the activities of the criminal justice system while also directing the appropriate attention to research and training."

33. Statements were made by W. Cheng (China), A. A. A. Shiddo (Sudan) and the Chairman of the Committee.

34. At the 11th meeting, on 16 February, the Committee had before it a revised draft resolution (E/AC.57/1990/L.11/Rev.1) submitted by S. Nour (Algeria), B. Pandi (Central African Republic) and V. Ramanitra (Madagascar).

35. At the same meeting, the Secretary of the Committee read out the following revisions, which had been agreed upon during the informal consultations held on the revised draft resolution:

(a) In the fifth preambular paragraph, the words "and interregional" were inserted after the words "usefulness of regional";

(b) In operative paragraph 3, the words "for a minimum of six years" was inserted after the words "assured and continuous basis".

36. Also at the same meeting the Committee approved the revised draft resolution, as further orally revised, and recommended its adoption to the Economic and Social Council (see chap. I, sect. A, draft resolution II).

Nomination of members of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute

37. At the 11th meeting, on 16 February, on the proposal of the Chairman, the Committee took note of the note by the Secretary-General on the nomination of members of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute (E/AC.57/1990/7) and decided to select, for endorsement by the Economic and Social Council, the following candidates for membership in the Board: Tolani Asuni (Nigeria), Pierre-Henri Bolle (Switzerland), Dusan Cotic (Yugoslavia), Régis de Gouttes (France), Moustafa El-Augi (Lebanon), José A. Rios Alves da Cruz (Brazil) and Shusil Swarup Varma (India) (see chap. I, sect. C, Committee decision 11/101).

Report of the Secretary-General on United Nations activities in crime prevention and control

38. At the 11th meeting, on 16 February, on the proposal of the Chairman, the Committee took note of the report of the Secretary-General on United Nations activities in crime prevention and control (E/AC.57/1990/2).

Chapter III

IMPLEMENTATION OF THE CONCLUSIONS AND RECOMMENDATIONS OF THE SEVENTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

1. The Committee considered agenda item 4 at the 3rd, 4th, 5th, 10th and 11th meetings, on 6, 7, 12 and 16 February 1990. It had before it the following documents:

(a) Report of the Secretary-General on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1990/3);

(b) Note by the Secretary-General on the United Nations network of government-appointed national correspondents in the field of crime prevention and control (E/AC.57/1990/4);

(c) Guide for Practitioners on the Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1990/CRP.1);

(d) Statement submitted by the World Federation for Mental Health, a non-governmental organization in consultative status with the Economic and Social Council, category II (E/AC.57/1990/NGO/3);

(e) Report of the Pre-sessional Working Group on the Implementation of United Nations Standards and Norms in Crime Prevention and Criminal Justice (E/AC.57/1990/WG.2).

2. In introducing the agenda item, the Chief of the Crime Prevention and Criminal Justice Branch and Executive Secretary of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders noted that the implementation of the conclusions and recommendations of the Seventh Congress included action at the national level as well as implementation at the international level by the Secretariat, in co-operation with the United Nations institutes and other entities concerned. As outlined in the note for consideration by the Committee, the government-appointed national correspondents had very important functions to perform in that respect, since they were involved in the execution of the United Nations programme of work in the field of crime prevention and in the promotion of co-operation on questions of criminal policy, including the implementation of existing standards and norms.

3. That the United Nations guidelines had significant impact was evidenced, for instance, in the many references to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34 of 29 November 1985) in recent national pronouncements in connection with new legislation and other measures taken. The Declaration was a milestone in the improvement of the situation of victims. However, much remained to be done, especially in providing recourse and redress for victims of abuse of power and in curtailing serious victimization. Effective preventive steps were required, since the international community had a collective responsibility in that respect, which had to be effectively discharged. The recommendations of the preparatory meetings for the Eighth Congress, especially the draft resolution of the Western Asia Regional Preparatory Meeting, together with the proposals contained in the Secretary-General's report (E/AC.57/1990/3), provided a basis on which to proceed.

4. The Committee and other bodies had stressed the need to reinforce the implementation process, and the convening of the Pre-sessional Working Group was a measure taken in that direction. As stressed in its report, technical assistance and co-operation were an essential means of helping Governments to translate United Nations guidelines and norms into tangible reality: while the interregional adviser's services were in constant demand, and the institutes were trying to assist their regions, the means available were still largely insufficient to satisfy the pervasive needs. Since the introduction of changes in legislative provisions and practices, in accordance with the United Nations guidelines, did not necessarily involve large outlays but was often a matter of attitudinal change, the initiatives taken by many Committee members to introduce that change through the dissemination of the United Nations standards were to be commended. The humanization of criminal justice was a common goal, the achievement of which could be advanced by the wider implementation of the United Nations norms.

5. The Chairman of the Working Group on Detention, of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, informed the Committee of the work of the Sub-Commission, stressing the importance of maintaining the closest co-operation possible between human rights and anti-crime bodies. The Sub-Commission was dealing with a range of issues, the most relevant being those related to the protection of the rights of detained persons. The development of international standards in the criminal justice field was of great interest to the Sub-Commission. The Working Group on Detention was giving special attention to the formulation of international standards on forced or involuntary disappearances and to the protection of infants and adolescents.

6. The crucial role of the national correspondents, as well as the efforts of the Secretariat to expand the network, were acknowledged by many Committee members and observers. It was noted that the network of national correspondents could be utilized also in respect of the various questionnaires sent to Governments requesting information on the implementation of United Nations instruments or in connection with the surveys on crime trends. Governments could be asked to co-ordinate the contributions of the relevant offices and supervise the replies to be prepared by them, ensuring their completeness and timeliness. In order to perform those tasks, as well as others that had been entrusted to them, national correspondents were required to devote much of their time and effort on a purely voluntary basis. Even though many of them had demonstrated their commitment and willingness to assist the United Nations, the fact that they were not always accorded official status, or that they had to search for data scattered among different governmental offices, made it extremely difficult for them to discharge their tasks. However, it was pointed out that in those cases where only one national correspondent had been appointed, the multiplicity and diversity of the required functions could be beyond his or her expertise or capabilities. Such difficulties would cause a loss of interest and discouragement.

7. It was pointed out that the role of national correspondents and the requirements for their appointment should perhaps be made even clearer to Governments, with very specific guidelines. It was also suggested that the Secretariat should evaluate the work of national correspondents to determine whether they were interested in the United Nations programme and whether they were in a position to make useful contributions. In order to render the network of national correspondents more effective, it was suggested that the well established legal framework should be clearly defined, and that their role and functions should be delineated by Governments. It was also suggested that the Secretariat should

consider ways of directing the request for the appointment of national correspondents to the appropriate government agencies or ministries, in order to avoid delays in appointments, and of alerting the national correspondents well in advance of any survey or questionnaire, providing them with a brief outline of such documents and describing their purposes and goals. National correspondents would then be in a position to notify the relevant government agencies or departments and request that they begin preparing the necessary replies. Such a method might improve the rate of responses to the questionnaires.

8. Many participants stressed that Governments should be urged to update the list of national correspondents and periodically review the appointments to ensure proper feedback. In that connection, they also emphasized that Governments should make every effort, in spite of potential budget restraints, to include national correspondents in their delegations to the Eighth Congress. It was deemed extremely important to convene a general meeting of national correspondents during the Eighth Congress to provide the opportunity for them to exchange views and experience and further strengthen the network. Unless Governments included national correspondents in their delegations, the financial burden of travel costs would not permit them to attend the Congress, and since they served as volunteers without remuneration, they could not defray the expenses.

9. The Committee took note that the Secretariat had requested the assistance of UNDP offices in various countries. Since those offices enjoyed direct access both to the United Nations and to the relevant government departments, they could not only provide liaison services between national correspondents and the Secretariat, but also help them to overcome postal difficulties by providing back-up for the network, thereby increasing the chances that the information and other material sent reached its destination in good time.

10. Finally, it was suggested that a list of national correspondents and their addresses should be published and distributed, and that exchanges of views between national correspondents should take place on a regular basis.

11. Members of the Committee welcomed the Secretary-General's report on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1990/3), which provided a useful overview of recent developments, and suggested some areas for further action. Approval was also expressed for the "Guide for Practitioners" (E/AC.57/1990/CRP.1), prepared with the assistance of the Helsinki Institute for Crime Prevention and Control (HEUNI) and reviewed by a group of experts convened with the support of the United Kingdom Home Office. It was also felt that the interdisciplinary training curriculum, developed by the Society for Traumatic Stress Studies and submitted to the Committee by the World Federation for Mental Health (E/AC.57/1990/NGO/3) should help significantly to upgrade the still limited expertise in that area.

12. In the debate, many participants stressed the importance of ensuring that work on victims' rights and support continued, and that the Declaration was fully implemented. There were encouraging recent developments, especially in improving the position of crime victims, who had tended to be a neglected party in criminal proceedings, such as the protection of witnesses against intimidation, without prejudice to the rights of offenders. In some countries special dispositions had been taken to aid victims, for instance by ensuring their right to privacy in sexual offences and in affording free treatment to those suffering mental ill-effects as a result of crime. Assistance to victims was being further

increased. There were new collaborative initiatives, such as the establishment of a European Forum on Victim Services, which promoted the exchange of experiences, the development of new services, and other means of assistance to crime victims. Those initiatives could be further extended and replicated in other regions with appropriate technical assistance. There was also a need to evaluate the impact of victim support schemes and the effectiveness of different kinds of treatment. Training of personnel was a key factor, but had to be accompanied by the creation of appropriate facilities and procedures so that the trained staff could properly use their newly acquired skills. Provision had to be made for changing requirements, especially in the training of trainers, which required continuous, often in-service, education. The media and the public also had to be informed, and appropriate educational programmes instituted.

13. It was necessary, one participant stressed, to convey to the population an accurate picture of the extent of crime, especially street crime which, if inflated, could generate unrealistic fear, which in itself was a form of victimization. However, there was no doubt that there was a widespread feeling of public insecurity that had a valid basis. Victimization surveys could shed further light on the situation, and the relaxing of international tensions allowed Governments to focus on internal rather than external security.

14. Some participants emphasized the distinction between victims of conventional crime and other victims, but it was also noted that since the basic principles of access to justice, reparation, assistance and prevention were common in the treatment of all victims, though the source and modalities of aid might vary, the draft "Guide for Practitioners" had used an integrated approach, while highlighting special needs.

15. A number of participants mentioned the steps taken in their countries to improve the situation of victims. It was also noted that in some countries there was a large number of victims of abuse of power whose situation could not be ignored, even if it raised some delicate questions. It was therefore indispensable that suitable international means of helping them and of preventing further victimization should be devised, particularly where national channels were insufficient. Regional mechanisms had proven effective in some areas (for example, the European Court of Human Rights) for complaints against conditions of detention, but though other important precedents existed (e.g. the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights), they were not utilized widely enough, and in some regions they still had to be activated, for example in Africa and Asia. However, proper enforcement of judgements was necessary to foster accountability.

16. Attention was drawn by several participants to the victimization of large numbers of people and sometimes entire countries through ecological and industrial crime and accidents that cost or endangered lives and impaired the environment and national economies. Developing countries were being used as the dumping ground for toxic wastes, which was unacceptable. The establishment of an international criminal court or regional courts to deal, *inter alia*, with such offences should be considered. Preventive measures were needed in that sphere, as in others, before the damage was done.

17. Reparation to victims of crime and abuse of power was deemed to be not only of material but also of great social importance. In various countries, especially developed ones, provision for compensation of crime victims existed, though the

specifics varied. The European Convention on Compensation to Victims of Violent Crimes provided guidelines in that regard, including cross-jurisdictional compensation. Other European conventions were also in force, such as the one on civil and commercial matters, which had provision for the enforcement of foreign judgements in compensation cases. The right of those victimized outside their countries, including tourists, to compensation was furthered by inter-State co-operation in such matters.

18. There were both economic and technical aspects involved in connection with the indemnification of victims. Developing countries, suffering from serious financial constraints, felt that they were not in a position to provide victim compensation, other than restitution from offenders, which was not always feasible. However, it was acknowledged that steps had to be taken because of the need and suffering involved, and as a matter of simple justice. There were also technical aspects that had to be considered, including the avenues, both penal and civil, for obtaining compensation. The latter could mean a protracted litigation process that did not always see justice done. Some countries had adopted new laws in the matter, affording citizens the right to sue for alleged violations of basic rights, and otherwise sought to implement the Declaration on Basic Principles. Developing countries required technical assistance for the establishment of adequate compensation systems, and the developed countries could help them considerably in that regard. Victims of crime and abuse of power also needed relevant information on how to proceed in claiming compensation, since many of them did not know where to turn for redress.

19. Consideration should also be given to those who were victimized by the criminal justice system when it disregarded basic human rights or was unduly repressive. In that respect, some participants deplored the readiness of some countries to invoke capital punishment, and particularly its use against juveniles. Although there were provisions for compensation to victims of abuse of power in different countries, for example for wrongful detention, many victims received no redress. In addition, the concept of compensation should be expanded to refugees, displaced persons or victims of natural disasters, who had the same needs as victims of such crimes as torture.

20. Both national and international action was required to correct the existing deficiencies with international modes of compensation where domestic means were non-existent or inadequate. There were some United Nations funds for special cases (e.g. the United Nations Fund for Victims of Torture), but the concept should be expanded to other categories. In that connection the establishment of a proposed United Nations foundation, inter alia, to help victims of international crimes, could perhaps also help to provide seed money for the development of national mechanisms and services for assistance to victims. It was also important to ensure proper co-ordination with other relevant initiatives, such as that taken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in respect of compensation to victims for gross violations of human rights.

21. To alleviate the situation of victims of organized crime and other abuses, which could affect not only individual victims but entire societies, seizure of the offenders' assets was essential. However, the funds seized, deriving from the proceeds of illicit drug trafficking, should be shared between the countries concerned. In addition, restitution was hampered by banking secrecy laws, which had to be amended.

22. It was also necessary to consider ways of handling heads of State who perpetrated crimes against their own people. There was further need to work out ways of compensating the victims of State terrorism.

23. It was urged that mediation and conciliation procedures, utilized in some countries, should be more widely promoted, and that the United Nations should collate, develop and disseminate them, preparing a catalogue and guidelines on the subject and promoting relevant training. Conflict-resolution techniques could fruitfully be employed not only between individual victims and offenders, but also for the reduction of social tensions likely to escalate into violence and to claim numerous victims.

24. Several members of the Committee accepted that more should be done to curtail and prevent serious victimization, and that urgent steps had to be taken in cases of large-scale abuses to reduce the human toll. Governments, intergovernmental and non-governmental organizations could well pool their efforts towards that end. It was felt that the proposals made in the Secretary-General's report (E/AC.57/1990/3), particularly in its concluding section, which outlined the possible modalities of action, provided a viable basis on which to proceed, including the elements of a resolution for adoption by the Eighth Congress. By looking at issues from the standpoint of victims, rather than assigning blame, much controversy could be avoided and productive approaches facilitated. It was time for the international community to tangibly demonstrate its solidarity with those who might have no other means of support, and the Eighth Congress should take appropriate action. Ancillary non-governmental organizations' meetings on victims' issues, to be held during the Congress, should also contribute to further progress in protecting them. Perhaps a convention on victims' rights and compensation should be developed, to include provisions for international co-operation in that sphere, drawing on the existing regional conventions.

25. The Chairman of the Pre-sessional Working Group introduced the report of the Group (E/AC.57/1990/WG.2), which contained a draft resolution that had been adopted unanimously. He noted that, due to the limited time available, the Working Group had not attempted to draw up specific proposals for the detailed administration, timetable and costs of an implementation programme based on its proposals, or to identify sources of extra funding that could be tapped if existing sources were found to be inadequate. It had, however, suggested a practical approach to the Committee that could readily be translated into a detailed programme at a later stage, for appropriate consideration by the Economic and Social Council.

26. The results of the Pre-sessional Working Group, as summarized in its report, were welcomed by the Committee. Some members of the Committee expressed their full support for the draft resolution as it stood. Others, while supporting it in general, made specific proposals for changes.

27. The suggestions made were commended, in particular because of the stress they placed on the programmatic and operational approach to implementation. It was pointed out that the Committee could not continue to elaborate lofty standards without making them operational. At the national level, laws not enforced led to a loss of moral authority and a loss of confidence. If that happened at the international level, the moral authority of the United Nations would be lost and people would come to see it merely as a paper factory.

28. It was also pointed out that current legislation in many countries had been based on the United Nations standards. It was hoped that such legislation would not remain merely a good intention, for lack of implementational support and assistance. But implementation of United Nations standards implied also acceptance by Governments. Perhaps they should consolidate existing standards in the form of an international convention by which States could make a solemn commitment to their application.

29. For all those countries witnessing dramatic changes towards a democratic society, there was a need for support and assistance in finding the balance between human rights and crime control. Effective implementation of United Nations standards could help to ensure such a balance.

Action taken by the Committee

Prison education

30. At the 10th meeting, on 12 February, D. Cotic (Yugoslavia), on behalf of W. Cheng (China), R. S. Clark (New Zealand), R. de la Cruz Ochoa (Cuba), D. Faulkner (United Kingdom of Great Britain and Northern Ireland), V. P. Ignatov (Union of Soviet Socialist Republics), S. A. Rozès (France) and A. A. A. Shiddo (Sudan), introduced a draft resolution (E/AC.57/1990/L.5) entitled "Prison education", which read as follows:

"The Economic and Social Council,

"*Affirming* the right of everyone to education, as enshrined in article 26 of the Universal Declaration of Human Rights, and in articles 13, 14 and 15 of the International Covenant on Economic, Social and Cultural Rights,

"*Recalling* rule 77 of the Standard Minimum Rules for the Treatment of Prisoners, which emphasizes, *inter alia*, that provision shall be made for the further education of all prisoners capable of profiting thereby, that the education of illiterates and young prisoners shall be compulsory and that the education of prisoners shall be integrated with the educational system of the country so far as practicable,

"*Recalling also* rule 22.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, which stresses that professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases and rule 26, which underlines the role of education and vocational training for all juveniles in custody,

"*Bearing in mind* the long-standing concern of the United Nations for the humanization of criminal justice and the protection of human rights and the importance of education in the development of the individual and the community,

"*Bearing in mind also* that human dignity is an inherent, inviolable quality of every human being and a pre-condition for education, aiming at human development of the whole personality, "Bearing in mind further that 1990, the year that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders meets, is also the International Literacy Year, the objectives of which are directly relevant to the individual needs of prisoners,

"Noting with appreciation the significant efforts made by the United Nations, in the preparation for the Eighth Congress, to give more recognition to prison education,

"1. Recommends that Member States, relevant institutions, educational counselling services and other organizations should promote prison education, *inter alia*, by:

"(a) Providing penal institutions with educators and accompanying services and raising the educational level of prison personnel;

"(b) Developing professional selection procedures and training of staff, and supplying the necessary resources and equipment;

"(c) Encouraging the provision and expansion of educational programmes for offenders in and outside prisons;

"(d) Developing education suitable to prisoners' needs and abilities, and in conformity with society's demands;

"2. Also recommends that Member States:

"(a) Should provide various types of education that would contribute to crime prevention and the resocialization of prisoners, such as literacy education, vocational training, continuing education for updating knowledge, higher education and other programmes that promote the human development of prisoners;

"(b) Should consider the increased use of alternatives to imprisonment and measures for the social resettlement of prisoners with a view to facilitating their education and reintegration into society;

"3. Further recommends that Member States in developing educational policies, should take into account the following principles:

"(a) Education in prison should aim at developing the whole personality, bearing in mind the prisoner's social, economic and cultural context;

"(b) All prisoners should have access to education, including literacy programmes, basic education, vocational training, creative and cultural activities, physical education and sports, social education, higher education and library facilities;

"(c) Every effort should be made to encourage the prisoner to participate actively in all aspects of education;

"(d) All those involved in prison administration and management should facilitate and support education as much as possible;

"(e) Education should have no less of a status than work within the prison régime, and prisoners should not lose financially or otherwise by taking part in educational programmes;

"(f) Vocational education should aim at the greater development of the individual, as well as being sensitive to trends in the labour market;

"(g) Creative and cultural activities should be given a significant role since they have special potential in enabling prisoners to develop and express themselves;

"(h) Wherever possible, prisoners should be allowed to participate in education outside the prison;

"(i) Where education has to take place within the prison, the outside community should be involved as fully as possible;

"(j) The necessary funds, equipment and teaching staff should be made available to enable prisoners to receive appropriate education;

"4. Urges the United Nations Educational, Scientific and Cultural Organization and its International Bureau of Education, in co-operation with the regional commissions, the interregional and regional institutes in crime prevention and criminal justice, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council, to become actively involved in this process;

"5. Requests the Secretary-General, subject to the availability of extra-budgetary funds:

"(a) To develop a set of guidelines and a manual on prison education that would provide the necessary basis for the further development of prison education and would facilitate the exchange of expertise and experience on this aspect of penitentiary practice among Member States;

"(b) To convene an international expert meeting on prison education, with a view to formulating action-oriented strategies in this area, with the co-operation of the interregional and regional institutes for crime prevention and criminal justice and the specialized agencies of the United Nations and other concerned intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council;

"6. Also requests the Secretary-General to inform the Committee on Crime Prevention and Control, at its twelfth session, on the results of his endeavours in this area;

"7. Invites the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the Committee on Crime Prevention and Control, at its twelfth session, to consider the question of prison education."

31. Statements were made by E. J. H. Frencken (Belgium), M. Shikita (Japan), F. Murad (Saudi Arabia), S. Nour (Algeria), A. L. Tamini (Argentina), R. de la Cruz Ochoa (Cuba), M. A. Sanchez Mendez (Colombia), F. De Silva (Sri Lanka), J. A. Montero Castro (Costa Rica) and S. A. Rozès (France).

32. At the 11th meeting, on 16 February, D. Cotic (Yugoslavia), on behalf of W. Cheng (China), R. S. Clark (New Zealand), R. de la Cruz Ochoa (Cuba), D. Faulkner (United Kingdom of Great Britain and Northern Ireland), V. P. Ignatov (Union of Soviet Socialist Republics), B. Miguel (Bolivia), S. A. Rozès (France) and A. A. A. Shiddo (Sudan), introduced a revised draft resolution (E/AC.57/1990/L.5/Rev.1).

33. The statement submitted by the Secretary-General on programme budget implications of the draft resolution was contained in document E/AC.57/1990/L.24.

34. At the same meeting, the Committee approved the revised draft resolution and recommended its adoption to the Economic and Social Council (see chap. I, sect. A, draft resolution III).

Implementation of the United Nations standards and norms in crime prevention and criminal justice

35. At the 10th meeting, on 12 February, M. Shikita (Japan), in his capacity as Chairman of the Pre-sessional Working Group on the Implementation of United Nations Standards and Norms in Crime Prevention and Criminal Justice, introduced a draft resolution (E/AC.57/1990/L.7) entitled "Implementation of United Nations standards and norms in crime prevention and criminal justice", which read as follows:

> "*The Economic and Social Council*,
>
> "*Bearing in mind* the Milan Plan of Action and the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,
>
> "*Bearing in mind also* the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex, of 29 November 1985), the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty (Economic and Social Council resolution 1984/50, annex, of 25 May 1984), the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex, of 17 December 1979), the Basic Principles on the Independence of the Judiciary, the Standard Minimum Rules for the Treatment of Prisoners, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (General Assembly resolution 40/33, annex, of 29 November 1985), the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65, annex, of 24 May 1989), and the Model Agreement on the Transfer of Foreign Prisoners,
>
> "*Further bearing in mind* the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolution 1984/47 of 25 May 1984), the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary (Economic and Social Council resolution 1989/60, annex,

24 May 1989), and the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials (Economic and Social Council resolution 1989/61, annex, 24 May 1989),

"Acknowledging the important role the United Nations has played, and continues to play, in the development of those standards and procedures through its quinquennial congresses on the prevention of crime and the treatment of offenders and the Committee on Crime Prevention and Control,

"Recognizing the valuable contribution of the United Nations to those endeavours through its human rights activities, based on the Universal Declaration of Human Rights (General Assembly resolution 217 A (III) of 10 December 1948), the International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200 A (XXI), annex, of 16 December 1966), the International Covenant on Civil and Political Rights and its Optional Protocol (General Assembly resolution 2200 A (XXI), annex, of 16 December 1966), its Second Optional Protocol Aiming at the Abolition of the Death Penalty (General Assembly resolution 44/128, annex, of 15 December 1989), the Convention on the Rights of the Child (General Assembly resolution 44/25, annex, of 20 November 1989), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, annex, of 9 December 1988) and other relevant instruments,

"Recalling General Assembly resolutions 40/146 of 13 December 1985, 41/149 of 4 December 1986, 42/143 of 7 December 1987 and 44/162 of 16 December 1989 on human rights in the administration of justice,

"Recalling also Economic and Social Council resolutions 1987/53 of 28 May 1987 and 1989/68 of 24 May 1989 on the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice,

"Further recalling Economic and Social Council resolution 1989/63 of 24 May 1989 on the implementation of United Nations standards and norms in crime prevention and criminal justice,

"Welcoming the steps taken by the Crime Prevention and Criminal Justice Branch, Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna, and the Centre for Human Rights to ensure even closer co-operation, particularly in the preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Commending in particular the fact that focal points have been further developed within the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs and the Centre for Human Rights to monitor the human rights aspects of the administration of justice in various programmes and to provide, as appropriate, advice on co-ordination and other relevant issues,

"Convinced of the need for further co-operation and concerted action, as reaffirmed, inter alia, by the Commission on Human Rights resolutions 1989/24 of 6 March 1989 on human rights in the administration of justice, 1989/32 of

6 March 1989 on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, and 1989/64 of 8 March 1989 on summary or arbitrary executions,

"1. Calls upon all Member States:

"(a) To adopt and implement at the national level the United Nations standards in crime prevention and criminal justice, in accordance with their constitutional process and domestic practice;

"(b) To ensure that the standards are widely publicized in at least the main or official language or languages of the country;

"(c) To guarantee that justice personnel, and members of the executive, the legislature, as well as the public in general, are informed in the most appropriate manner of the content and importance of the standards, and that the standards are made available to them;

"(d) To design ways and means of enhancing the observance of the standards, including the elaboration of realistic and effective implementation procedures, the use of the standards in the curricula of universities and other institutions, the organization of seminars and training courses, as well as other meetings at the professional and non-professional levels, the more active involvement of the community and the increased support of the mass media;

"(e) To promote studies on measures for the effective implementation of the standards, with emphasis on new developments in that area;

"(f) To provide the needed support to the United Nations regional and interregional research and training institutes for crime prevention and criminal justice, as well as other entities in the United Nations system concerned with the implementation of the standards;

"(g) To increase, as far as possible, the level of support to technical co-operation and advisory services either directly or through international funding agencies, so as to promote the provision of technical co-operation to Governments requesting it;

"2. Urges the Committee on Crime Prevention and Control to continue keeping the standards under review and following-up their implementation, including recommendations on the determination of their future application and identification of existing obstacles to, or shortcomings in, their implementation, inter alia, through contacts with the Governments of the countries concerned, with a view to suggesting appropriate remedies;

"3. Authorizes the Chairman of the Committee to designate members of the Committee, with due regard to appropriate regional representation, to assist the Committee in the periods between its sessions in the implementation of specific standards, in close co-operation with the United Nations institutes for crime prevention and criminal justice, and the other entities and organizations concerned, and to inform the Committee and its pre-sessional working groups of the results of these endeavours, without financial implications to the United Nations;

"4. Invites Member States to allocate extrabudgetary funds to enable the designated members of the Committee to draw on their best available professional and academic sources of information, to consult with non-governmental organizations and to hold *ad hoc* meetings as may be required;

"5. Requests the Secretary-General to provide the designated members of the Committee with all the assistance necessary for the successful completion of their tasks;

"6. Calls upon the Committee on Crime Prevention and Control, at its twelfth session, to make specific recommendations to the Economic and Social Council on further action required for the effective implementation of existing standards, on the basis of the proposals made in the report of the Pre-sessional Working Group, taking into account, in particular, the following issues:

"(a) Measures to increase the level of support to programmes of technical co-operation and advisory services in crime prevention and criminal justice to permit more effective implementation, including special projects designed and carried out at the country level and more active involvement of potential funding agencies;

"(b) The role of the United Nations, in particular the Committee on Crime Prevention and Control, in promoting the implementation of existing standards, including modalities for strengthening existing review procedures, more active inter-sessional involvement of Committee members and other experts;

"(c) The relationship between the effectiveness of implementation and the work-load of the Committee and the Secretariat;

"(d) The growing burden imposed on many States by the expansion of reporting obligations, and the need for technical assistance;

"(e) The problem of inadequate reporting or excessive delays;

"(f) The question of additional or alternative sources of information;

"(g) The inability of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, for reasons of inadequate staffing and other financial constraints, to provide the Committee with the administrative and technical support it would require;

"7. Authorizes the Committee on Crime Prevention and Control to continue its practice of convening a pre-sessional working group of two days before each session;

"8. Requests the Secretary-General to provide to the Committee on Crime Prevention and Control and its pre-sessional working groups all the assistance necessary for the successful completion of their tasks;

"9. Requests the Secretary-General to ensure, through the Department of Public Information, the widest possible dissemination of United Nations standards in crime prevention and criminal justice and the periodic reports on their implementation, in as many languages as possible, and to make them available to all States and to the intergovernmental and non-governmental organizations concerned;

"10. Emphasizes the significant role of the United Nations regional and interregional institutes and the regional commissions, the interregional and regional advisers in crime prevention and criminal justice, the specialized agencies and other organizations of the United Nations system, as well as intergovernmental and non-governmental organizations, including professional associations concerned with promoting United Nations standards in crime prevention and criminal justice, and invites them to continue and intensify their active involvement in this task;

"11. Reaffirms the importance of developing diversified funding strategies, including recourse to voluntary and mixed multilateral and bilateral contributions for specific projects, and of strengthening the involvement of United Nations development agencies, including the United Nations Development Programme and the World Bank;

"12. Invites the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to include in its consideration the following issues:

"(a) The means by which to accord adequate priority to the implementation of existing standards;

"[(b) The possibility of consolidating the reporting arrangements;]

"[(c) The possibility of elaborating international conventions in the area of crime prevention and criminal justice.]."

36. Statements were made by A. L. Tamini (Argentina), F. Murad (Saudi Arabia) and M. Shikita (Japan). The Secretary of the Committee made a statement on the programme budget implications of the draft resolution.

37. At the 11th meeting, on 16 February, M. Shikita (Japan), in his capacity as Chairman of the Pre-sessional Working Group, introduced a revised draft resolution (E/AC.57/1990/L.7/Rev.1).

38. The statement submitted by the Secretary-General on programme budget implications of the revised draft resolution was contained in document E/AC.57/1990/L.16.

39. At the same meeting, the Committee approved the revised draft resolution and recommended its adoption to the Economic and Social Council (see chap. I, sect. A, draft resolution IV).

Victims of crime and abuse of power

40. At the 10th meeting, on 12 February, R. S. Clark (New Zealand), on behalf of D. Cotic (Yugoslavia), T. P. F. De Silva (Sri Lanka), D. Faulkner (United Kingdom of Great Britain and Northern Ireland), R. L. Gainer (United States of America), V. P. Ignatov (Union of Soviet Socialist Republics), A. L. O. Metzger (Sierra Leone), J. A. Montero Castro (Costa Rica), S. A. Rozès (France) and A. A. A. Shiddo (Sudan), introduced a draft resolution (E/AC.57/1990/L.9) entitled "Implementation

of the conclusions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders", which read as follows:

"The Economic and Social Council,

"Bearing in mind General Assembly resolution 40/34 of 29 November 1985 adopting the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, approved by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recalling that in this resolution Member States and other entities were called upon to take the necessary steps to give effect to the provisions of the Declaration so as to secure justice and assistance for victims of crime and abuse of power and curtail victimization,

"Taking into account Economic and Social Council resolution 1989/57, of 24 May 1989, in which the Council recommended that a number of measures should be taken at the national and international levels to give effect to the provisions of the Declaration and ensure further progress in developing redress and services for victims, promoting a better understanding of their situation and appropriate assistance, in collaboration with the relevant agencies and organizations,

"Bearing in mind the resolutions and recommendations of the preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Having considered the Guide for Practitioners on the Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1990/CRP.1),

"Recognizing the need for continuing efforts to give effect to the Declaration, and to adapt it to the full range of needs and the circumstances of different countries,

"Recognizing, in particular, the need to look beyond national measures in some instances, especially where victims of transnational crimes and abuse of power are concerned,

"1. Takes note of the report of the Secretary-General on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1990/3) and of the note by the Secretary-General on the United Nations network of government-appointed national correspondents in the field of crime prevention and control (E/AC.57/1990/4);

"2. Requests the Secretary-General to take concerted action in order to prevent and curtail serious victimization where national remedies are inadequate, involving all parts of the United Nations system and other relevant organizations, with an appropriate division of responsibilities and adequate co-ordination between all the entities concerned:

"(a) To monitor the situation;

"(b) To provide crisis intervention, where appropriate, to halt further victimization;

"(c) To develop and institute means of conflict resolution and mediation;

"(d) To promote access to justice and redress for victims;

"(e) To assist in providing material, medical and psycho-social assistance to victims and/or their families;

"3. Invites the United Nations interregional and regional institutes to provide mechanisms for the development and international co-ordination of services for victims, and to promote the collection, collation, and exchange of information and ideas in order to improve standards for the treatment of victims;

"4. Requests the Secretary-General to continue to devote attention to policy and research on the situation of victims of crime and abuse of power, and to the effective implementation of General Assembly resolution 40/34 and the Declaration;

"5. Recommends that Member States and the United Nations interregional and regional institutes should take the necessary steps to provide suitable training in issues concerning victims to professionals and others dealing with victims;

"6. Invites the United Nations funding agencies, especially the United Nations Development Programme and the Department for Technical Co-operation for Development, to support programmes of technical co-operation to Governments for the establishment of services for victims;

"7. Requests the Secretary-General to further develop international means of recourse and redress for victims where national channels may be insufficient, and to report on their development to the Committee on Crime Prevention and Control at its twelfth session;

"8. Invites the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to recommend the wide distribution of the Guide for Practitioners, the annotations to the Declaration, and the model training curricula."

41. Statements were made by F. Murad (Saudi Arabia), R. de la Cruz Ochoa (Cuba), A. L. Tamini (Argentina), S. A. Rozès (France) and R. L. Gainer (United States of America).

42. At the 11th meeting, on 16 February, R. S. Clark (New Zealand), on behalf of D. Cotic (Yugoslavia), T. P. F. De Silva (Sri Lanka), D. Faulkner (United Kingdom of Great Britain and Northern Ireland), R. L. Gainer (United States of America), V. P. Ignatov (Union of Soviet Socialist Republics), A. L. O. Metzger (Sierra Leone), J. A. Montero Castro (Costa Rica), S. A. Rozès (France) and A. A. A. Shiddo (Sudan), introduced a revised draft resolution (E/AC.57/1990/L.9/Rev.2) entitled "Victims of crime and abuse of power".

43. At the same meeting, the Committee approved the revised draft resolution and recommended its adoption to the Economic and Social Council (see chap. I, sect. A, draft resolution V).

United Nations network of government-appointed national correspondents in the field of crime prevention and control

44. At the 11th meeting, on 16 February, on the proposal of the Chairman, the Committee took note of the note by the Secretary-General on the United Nations network of government-appointed national correspondents in the field of crime prevention and control (E/AC.57/1990/4).

Chapter IV

CONTINUATION OF PREPARATIONS FOR THE EIGHTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

1. The Committee considered agenda item 5 at its 5th, 6th, 7th, 10th, 11th and 12th meetings, on 7, 8, 12 and 16 February 1990. It had before it the following documents:

(a) Report of the Secretary-General on the continuation of preparation for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (E/AC.57/1990/5 and Add.1-5);

(b) Draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property (E/AC.57/1990/CRP.3);

(c) Draft manual on crime prevention strategies (E/AC.57/1990/CRP.4);

(d) Draft manual on practical measures for anti-corruption efforts (E/AC.57/1990/CRP.5);

(e) Statement submitted by the International Centre of Sociology, Penal and Penitentiary Research and Studies, a non-governmental organization in consultative status with the Economic and Social Council, category II (E/AC.57/1990/NGO.1);

(f) Statement submitted by the International Association of Penal Law, the International Society for Criminology, the International Society of Social Defense and the International Institute of Higher Studies in Criminal Sciences, non-governmental organizations in consultative status with the Economic and Social Council, category II (E/AC.57/1990/NGO.2);

(g) Reports of the interregional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/IPM.1-5);

(h) Reports of the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/RPM.1-5).

2. In introducing the agenda item, the Director-General of the United Nations Office at Vienna and the Secretary-General of the Eighth Congress indicated that, as the preparatory body of the Congress, the Committee faced the critically important task of reaching conclusions and making recommendations concerning all the draft instruments, models and resolutions to be submitted to the Congress. The preparatory work was well advanced and the issues before the Committee were clearly presented. All five regional preparatory meetings had been unanimous in supporting the proposals of the interregional meetings, as endorsed by the Committee and the Economic and Social Council. The Committee had now the task of examining the recommendations, resolutions and other drafts considered by those meetings and deciding on the revised proposals for submission to the Congress.

3. The representatives of the Committee at the five regional preparatory meetings reported on the recommendations adopted by meetings. The meetings had urged

reinforced international action against transborder criminality and strengthened co-operation between States, particularly through a new convention on crime prevention and criminal justice.

4. The representative of the host country for the Eighth Congress informed the Committee that his Government had appointed a high-level commission to ensure optimal conditions and the most effective arrangements for the Congress, as well as for the preparatory and follow-up activities.

5. The Committee members stated that the quality of the documentation prepared for the Eighth Congress attested to the hard work done by the United Nations Secretariat with the assistance of Governments, United Nations institutes, concerned intergovernmental organizations and a number of non-governmental organizations. The draft model treaties, agreements, other proposed instruments, recommendations and resolutions, if endorsed by the Eighth Congress, would constitute a most important addition to the already existing norms and guidelines. Together, they would form a sound basis for strengthened international co-operation in dealing with transboundary criminality and for enhancing the effectiveness of domestic crime control.

6. In that connection, it was noted that a serious obstacle lay in the slow and incomplete implementation of the existing instruments. Although some progress could be reported, much more had to be accomplished. The lack of implementation converted the best instrument into a useless piece of paper. It was important to examine the state of, and prospects for, international co-operation in crime prevention. A comprehensive approach that took into account political, social and economic factors had replaced the repressive model. The problem of crime would be compounded if there were no comprehensive development, where people were afforded justice in all its aspects. Chronic hunger and unemployment stimulated crime in countries where billions of dollars in foreign debt were hampering progress. In some regions, inflation was up to 1,000 per cent per year, per capita investment and salaries had dropped, child mortality had reached the figure of 66 per 1,000, and prospects for the 1990s were bleak.

7. If current conditions persisted, crime would also continue to escalate. Criminal justice had to be looked at as a coherent system. An assessment of current justice administration had to be carried out in a systematic way with the assistance of information technology. Penal sanctions should be mitigated, without removing the possibility of severe penalties in more serious cases. Overcrowding of gaols could be combated by a policy of providing alternatives to imprisonment. It was clear that those problems required a proportional response that took into account the world-wide dimensions and increasing seriousness of crime and its devastating consequences.

8. Some concern was expressed about the large number of drafts that would have to be examined by the Eighth Congress. It was noted that the sheer volume and complexity of the material could choke the Congress, particularly in view of its short duration. The amount of work could damage the relaxed and friendly atmosphere required for the objective consideration of the drafts. Perhaps the Committee should establish a scale of priorities, eliminating some proposals given a low ranking. Others, however, thought it was already too late for such decisions, since so much effort had already been invested in the preparation of the draft instruments.

9. Governments needed time to study the proposals in preparation for the Eighth Congress, and that process was normally protracted. Only if they gave matters the proper attention could Governments be expected to take intelligent and informed policy positions that would contribute to the success of the Congress. In that connection, it was noted that all substantive recommendations for action by the Congress would be made available to Governments following their endorsement by the Economic and Social Council.

10. The documentation for the Eighth Congress reflected the acute need for innovative approaches. Those were a reaction to the increased complexity and intensity of criminal activities, not only in their transboundary forms, but also in their traditional dimensions, such as the entire gamut of urban crime. First, it was evident that the problem of crime prevention could not be dealt with successfully in a unilateral fashion. It was necessary to develop an integrated and multisectoral approach, which co-ordinated the actions from the central level to that of the immediate neighbourhood, including the efforts of the public sector and those of the private sector. Secondly, it was just as clear that repression alone was insufficient and could be counterproductive. Crime was stimulated, *inter alia* by poverty, ignorance and a lack of opportunities. In developing countries, the resources required for effective crime prevention were often simply non-existent, and the economic havoc created by foreign indebtedness aggravated the situation. In that connection, the urgent need to expand international technical co-operation was strongly emphasized by the participants. In that area, as in many others, the Congress provided a special opportunity for improving the effectiveness of the United Nations programme of work in crime prevention and criminal justice.

11. The lack of opportunity for the Committee to attend the Congress, except as members of national delegations, was most unfortunate. As the preparatory body for the Congress, it was difficult to understand that no possibility existed for the Committee to be officially represented at that event, at least by its Bureau. It was obvious that such an arrangement would have financial implications that were, however, minimal when compared with the total cost of the congresses, including their preparatory work. The present situation was, in any case, both paradoxical and unsatisfactory.

12. With respect to item 3 (topic I) of the provisional agenda for the Eighth Congress, members of the Committee felt that the inclusion in it of environmental offences gave the Eighth Congress an opportunity to formulate recommendations for the protection of the environment. Such legal protection was urgently needed, both at the national and international levels. The introduction of sanctions against those who wilfully and unscrupulously exploited national resources without concern for the damage caused to the ecosystem should be seriously considered. That was particularly necessary in so far as criminal law had not, until very recently, taken into account the damage inflicted on the environment. National legislation in that field was lacking and, when available, appeared to be inadequate. But now pollution of different sorts had become an extreme threat to humankind, a situation that fully justified the Eighth Congress taking steps to criminalize a variety of behaviours in that area.

13. The opinion was voiced that it was necessary to start drafting an instrument that aimed at establishing civil and criminal liability for international activities harmful to nature and the environment. That should be followed by the

formulation of a convention for the protection of the ecosphere, which included an appropriate role for criminal law.

14. The dumping of toxic wastes and radioactive substances in developing countries was rapidly leading to a very dangerous situation for their populations. That was an intolerable victimization of poor countries by the industrialized countries, and an end should be put to such irresponsible activities. There was an urgent need to examine the question of the criminal responsibilities of countries - an arena of international law hardly developed. None the less, it should be recognized that dumping often happened with the complicity of the authorities of the developing countries, who saw in it a source of income, often for personal gain.

15. The first draft of a manual on corruption was welcomed as a valuable step in the right direction. To ensure its global applicability and universal relevance, the reactions of the Committee were indispensable. Since that was not feasible at the current session, the participants were requested to address their comments, reflecting their national experience, to the United Nations Secretariat, thus helping in the process of revision.

16. The draft model treaty for the prevention of crimes against the cultural patrimony of States was welcomed as a useful complement to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of the United Nations Educational, Scientific and Cultural Organization (UNESCO). The draft had been prepared in close co-operation with the Division of Cultural Patrimony of UNESCO, as well as with the assistance of the United Nations interregional and regional institutes and of individual experts.

17. The draft model treaty showed similarities to existing bilateral treaties. Its aims were well-founded, since, when the culture of a people was appropriated, part of a nation's soul disappeared. The pillaging of archaeological sites had to be more effectively brought under control, although the high prices those articles fetched on the international art markets was an incentive to black marketeers and their accomplices in the victimized countries. It was suggested that the draft model should incorporate the possibility of establishing a computerized registry of the objects included under the protection of the draft model treaty, thus increasing the effectiveness of the arrangements. Further, the accompanying resolution could include a request to the Secretary-General to investigate the possibility of establishing an international data bank containing visual reproductions of the protected objects. That data bank could certainly assist greatly in combating that type of criminality.

18. It was also suggested that, should the Committee, being pressed for time, be unable to review the draft model treaty, it could approve it subject to the convening by the United Nations Secretariat, with extrabudgetary funding, of a drafting group of experts who could work out an improved version for submission to the Eighth Congress.

19. Concerning item 4 (topic II) of the provisional agenda for the Eighth Congress, the Committee considered the draft United Nations standard minimum rules for non-custodial measures (the Tokyo rules) to be an important initiative. Some countries had extensive concrete experience in the field, while others did not. That determined different interests: those with non-custodial experience wished to

discuss fine-tuning to protect individual rights, while those without experience wanted to discuss the incorporation of such measures into their legislation. There was a need to adjust the draft Tokyo rules to reflect both interests and also make procedural arrangements so that both discussions could be effectively conducted at the Eighth Congress.

20. The Committee also paid particular attention to the issue of computerization of criminal justice systems. The success of crime prevention efforts would increasingly depend on the application of computer technology as an integral part of crime prevention and criminal justice systems. The complexity of the problem of crime necessitated the utilization of sophisticated technology, of which electronic information processing was perhaps the best example. Further discussion of that question showed that, in addition to a computerized intergovernmental exchange of information on criminal justice matters, made possible through the Global Crime and Criminal Justice Information Network, the Council of Europe and other organizations, the question of computerization should be addressed at the national level and from the standpoint of particular criminal justice agencies.

21. In that connection, several experts stressed that in their countries there already existed national computer systems of criminal justice administration that had been developed on the basis of experiences gathered by the computerization of the operations of individual agencies such as the police and the courts. However, that kind of use of computerization had various practical and legal implications. For instance, a certain reluctance to use computers had been observed among criminal justice personnel, indicating the need for computer literacy programmes that would help to overcome such resistance.

22. Participants felt that computers per se would not solve the problems of criminal justice management. As a means to a particular end, computer equipment should be used only to implement a well-conceptualized strategy. Such a strategy was needed both nationally and internationally.

23. In the case of the European Economic Community, political integration generated a need to develop a common approach that entailed the development of common concepts and transmission systems. Further European integration would create new forms of crime, and hence increase the need to share information in the most effective manner.

24. Several participants mentioned that while there were clear advantages to continuing the work on computerization nationally and internationally, that work should also take into account the possible dangers. Some of those were the misuse of computer hardware and software, and practices that only partly fell into the domain of criminal law. In general, there prevailed a lack of appropriate provisions.

25. Computer crime was identified as a major danger. It was strongly felt that the Eighth Congress, in discussing the question of computerization of criminal justice administration, should give serious consideration to that problem. It was fortunate that an ancillary meeting of non-governmental organizations at the Eighth Congress was going to focus on computer crime.

26. The Committee was briefed on the ongoing preparations for the demonstration workshop on the computerization of criminal justice administration to be held at the Eighth Congress. The workshop was going to emphasize two major points:

presentation of general national reports on computerization of criminal justice and demonstrations of computer software and hardware.

27. In concluding the general discussion on the question of the computerization of criminal justice administration, two proposals were made to the Committee. One participant brought to its attention the possibility of technical assistance projects to be devised and funded in co-operation with the Asia Crime Prevention Foundation for the benefit of developing countries needing training in that particular field. Another participant drew the attention of the Committee to a draft programme on computerization of criminal justice administration, adopted by the ad hoc expert group meeting organized by the Government of Canada at Ottawa from 27 November to 2 December 1989, in support of the United Nations crime prevention and criminal justice programme.

28. The Committee took note of a report on the immunodeficiency syndrome (AIDS) in prison that was being prepared in close co-operation with the Global Progamme on AIDS of the World Health Organization. The United Nations Secretariat had succeeded in enlisting the assistance of national correspondents in crime prevention and criminal justice in the collection of data, while national AIDS machinery had performed a parallel effort. Thanks to that co-operation, it had been possible to include information from 33 countries in the report, which covered not only the epidemiological aspects, but also ethical issues and management problems.

29. Participants welcomed the results of the European Meeting for Heads of Prison Administrations, held at Messina and Rome, from 6 to 12 November 1989. The Meeting had been organized by the Ministry of Justice of Italy in co-operation with the International Centre of Sociological, Penal and Penitentiary Research and Studies and the Henry Dunant Institute. The Meeting, convened under United Nations auspices and with the support of the Helsinki Institute for Crime Prevention and Control (HEUNI), had adopted the Rome Declaration (E/AC.57/1990/NGO.1, annex).

30. The Committee was informed that the Rome Declaration, the provisions of which aimed at strengthening European co-operation in penitentiary matters, could be submitted to the Eighth Congress for possible follow-up. In that connection, the observer for Poland informed the Committee that, subject to further consultations, his country intended to host, under United Nations auspices, the next European Meeting for heads of prison administrations.

31. The Committee discussed item 5 (topic III) of the provisional agenda for the Eighth Congress and noted with concern the continued growth in the frequency and gravity of transboundary crime, a trend that represented a grave threat to most societies, regardless of their different cultures, political systems or social institutions. New approaches were urgently needed and an intensification of international co-operation was indispensable. The Congress could make a very valuable contribution in that respect. The draft model treaties on mutual assistance and extradition were steps in the right direction.

32. The representative of the Office of Legal Affairs briefed the Committee on the latest developments concerning the issue of international terrorism, which was a subject of great political complexity, in relation to which there was a great divergence of points of view. Everyone strongly condemned international terrorism but differed widely on its definition. Attention was also drawn to the link

between terrorists and drug traffickers and the observer called for increased international co-operation in combating those groups.

33. The question of the establishment of an international criminal court was being discussed within the framework of consideration of the draft code of offences against the peace and security of humankind. Because of the urgent need for an international approach to the global criminal problem of illicit drug trafficking, such a court could also assist those legal systems that bore an overwhelmingly disproportionate share of the burden of prosecuting international drug traffickers. An international criminal court would provide specialized machinery to deal with international crimes in a competent and expeditious manner. If it were possible to set up such a court, the maintenance of the rule of law would be enhanced.

34. In relation to extradition and mutual assistance, some representatives thought that the profound changes that had taken place in recent decades made imperative a re-examination of the ideas on which they were based. In the face of changed needs, a redefinition of their underlying concepts had become essential. In that respect, it was stressed that while previously 90 per cent of extradition cases involved offences mainly breaching the laws of only one country, much crime was now of a transnational nature, usually with premeditated acts involving the breach of laws of a number of countries. Judicial co-operation and extradition was, therefore, crucial for international co-operation against crime, and States that refused to co-operate were offering criminals refuge. Model treaties would enhance United Nations activities in that regard.

35. Some participants expressed support for the idea of an international criminal court under the aegis of the United Nations. There was urgent need for an international approach to the prosecution of certain transnational crimes, such as illicit drug trafficking, which presented a grave threat to the integrity of States. Moreover, an international criminal court eliminated the danger of powerful nations extending their jurisdiction beyond their borders in an attempt to bring criminals to justice. Such an international court would in no way violate the principle of sovereignty, since the acquiescence of countries involved in the action of the court was a conditio sine qua non.

36. Other participants were rather sceptical of the idea, in view of the difficulties it had to face. The complexity of the undertaking should not be underestimated, and the initiative needed detailed and careful analysis. There were many questions that required clear answers. Thus, for example, both the substantive definition and the procedure to be used had to be determined. The issue involved highly sensitive political matters that could not be dealt with easily.

37. None the less, other initiatives that were, not too long ago, judged to be similarly utopian and unrealistic, had become realities. Such was the case of the European Court at Strasbourg, which was functioning quite satisfactorily in spite of all the political difficulties that had attended its creation. It would not do to be paralysed by excessive pessimism, particularly at a time when a remarkable relaxation of international tensions was facilitating the implementation of initiatives thought impossible only a few years ago. Consequently, the project necessitated study, reflection and political will.

38. In relation to illicit drug trafficking, some participants thought that, in view of the low rate of ratification to date of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the Committee should take the opportunity of formulating a call to Governments, bringing their attention to the urgency of the matter.

39. Further, many participants thought that the prevailing practice of bank secrecy presented a grave obstacle to effective investigation in that it provided criminals with safe havens for their illicit profits. Thus, bank secrecy had to be made more flexible. Countries had to be consistent. They could not claim that they were willing to co-operate while defending totally rigid bank secrecy practices.

40. The legislation concerning money laundering was, in many cases, inadequate and required considerable elaboration. In many countries, it was totally non-existent. With respect to the seizure and forfeiture of the profits of drug trafficking, the view was expressed that such funds should be shared by the countries concerned.

41. The Committee thought that repression alone was not sufficient in that area. Other social dimensions of the phenomenon of illegal drug production and drug abuse had to be taken into consideration. It was obvious that prevention should include a very strong educational component since young people were particularly vulnerable to the temptation of drug abuse.

42. Although the effectiveness of crop substitution as part of prevention strategies was recognized, it was indicated that the substituting crops should be competitive in the world market. Substitution for substitution's sake would lead nowhere, since the farmers' co-operation could hardly be secured by a scheme that endangered their already weak economic situation. Assistance against drugs, moreover, should in no case be limited to the provision of weaponry, armaments, aircraft or other military matériel.

43. There was also an urgent need to redefine the concept of political offences, so as to limit the reach of the political exception clause in matters of extradition. First, terrorism should never be accepted as a political offence, regardless of the motivation of the actors. Moreover, the emphasis often placed on innocent victims was, for some participants, totally misplaced, since it implied some degree of justification for terrorist acts against persons who were allegedly not innocent. That expression should perhaps be avoided, thus eliminating possible misinterpretations.

44. Other important issues that, according to some participants, deserved much more emphasis were, first, State terrorism and, secondly, the links between terrorism and illicit drug trafficking. The scientific contribution made by the Colloquium of Bellagio, organized by the Centro Nazionale de Prevenzione e Difesa Sociale, was acknowledged.

45. With respect to item 6 (topic IV) of the provisional agenda for the Eighth Congress, the Committee noted the importance of the United Nations juvenile justice programme. Concern was expressed about the growing number of children who were marginalized, victimized, abused, subject to sale and trafficking, pornography and prostitution or who were living on the streets. The latter, which was a most

vulnerable group, should be integrated into all programme activities related to juvenile justice.

46. It was pointed out that, since young persons constituted over 50 per cent of the population in developing countries, their protection was imperative. Many countries were successfully implementing the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and extensive reforms of juvenile justice systems were being undertaken world wide, in line with the Rules.

47. The Committee noted that the draft United Nations rules for the protection of juveniles deprived of their liberty constituted an important further step towards the recognition of the basic human rights of young persons, especially when considered together with the recently adopted Convention on the Rights of the Child. It was pointed out that while the Convention was legally binding, and therefore stated general principles, the Rules were far more detailed as their purpose was to guide and assist Member States in their efforts to improve the situation of young persons deprived of their liberty.

48. Great satisfaction was expressed with the endorsement of two new draft international instruments - the United Nations rules for the protection of juveniles deprived of their liberty and the United Nations guidelines for the prevention of juvenile delinquency (the Riyadh guidelines) - by the regional preparatory meetings. It was hoped that the Eighth Congress would adopt them, thus establishing new components of an enlightened policy, particularly with regard to young people in conflict with the law. It was considered that once the instruments had been adopted, Member States should be strongly encouraged and assisted to the fullest extent possible in their implementation.

49. Some disappointment was expressed with respect to the lack of action concerning domestic violence. Although the issue had received some attention at the tenth session, no steps had been taken since then and, thus, no proposals were before the Committee in that important area. It should not be forgotten that the issue was still part of the provisional agenda of the Congress and that initiatives in that connection would therefore be welcome.

50. In relation to item 7 (topic V) of the provisional agenda for the Eighth Congress, the attention of the Committee was drawn to the question of capital punishment, which had been on some of its previous agenda. The continuing significance of that issue for the Committee's future deliberations was emphasized. In particular, the need was mentioned for effective implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty. Grave concern was further expressed about the increasing numbers of extra-legal, arbitrary or summary executions.

51. In that connection, it was recalled that the General Assembly, by resolution 44/128 of 15 December 1989, had adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. The parties to that Protocol would undertake not to carry out any more executions and to introduce all necessary measures to abolish the death penalty within their jurisdiction. The only admissible reservation was the application of the death penalty in times of war. The Protocol would enter into force after being ratified by at least 10 Member States. It had been opened for

signature in February 1990 at the United Nations Secretariat in New York by any State that had signed the Covenant.

52. With the adoption of the Second Optional Protocol, which went back to a proposal made to the General Assembly in 1980, the first world-wide instrument against capital punishment had come into existence. The hope was expressed that the majority of States would soon adhere to the Protocol so that capital punishment, which violated human dignity, would disappear in most parts of the world.

53. It was observed that the important draft standards and model treaties to be considered under item 7 (topic V) were at an advanced stage of elaboration and needed only minor revisions or amendments, with the possible exception of the draft guidelines on the role of prosecutors, where a more thorough review was required with a view to their submission to the Eighth Congress.

54. The far-reaching significance of standard-setting and implementation in the area of administration of justice and human rights was emphasized, in particular, with reference to the draft basic principles on the use of force and firearms by law enforcement officials and the draft basic principles on the role of lawyers. Regarding the latter, the view was expressed that lawyers should not be agents of the accused, but rather of criminal justice. While legal systems in certain States were still developing or undergoing major transformation or reform, the number of lawyers available was sometimes insufficient, especially in developing countries, to ensure full participation of the individual in the legal process.

55. Finally, the Committee was informed about the activities of the Alliance of Non-Governmental Organizations in Crime Prevention and Criminal Justice (Vienna), in particular concerning such questions as political prisoners, hunger strikes, the prisoner's right to marry and the electoral rights of prisoners.

Action taken by the Committee

Prevention of urban crime

56. At the 10th meeting, on 12 February, S. A. Rozès (France), on behalf of D. Faulkner (United Kingdom of Great Britain and Northern Ireland), E. J. H. Frencken (Belgium) and V. Ramanitra (Madagascar), introduced a draft resolution (E/AC.57/1990/L.4/Rev.1) entitled "Prevention of urban crime", which read as follows:

> "The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,
>
> "*Recalling* the Milan Plan of Action, adopted unanimously by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,
>
> "*Recalling* the final declaration of the European and North American Conference on Urban Safety and Crime Prevention, held in Montreal,

"*Recalling also* the catalogue of crime prevention measures prepared by the Helsinki Institute in compliance with resolution 1989/69 of the Economic and Social Council,

"*Noting* that all States are confronted by the problem of crime, particularly urban crime,

"*Convinced* that, if the desire is to reduce crime, a response based solely on the police and criminal justice system is inadequate, and that it is essential to supplement this response by an active prevention policy,

"*Considering* that it is at local level, and particularly at the urban level, that any prevention policy must be carried out,

"*Emphasizing* that prevention is the concern of all and that in particular:

"(a) It is the task of Governments to develop national prevention programmes;

"(b) Prevention must bring together those with responsibility for housing, social services, leisure activities, schools, the police and the justice system in order to deal with the conditions that generate crime;

"(c) Elected officials at all levels must employ the authority of their office and assume their responsibilities in combating urban crime;

"(d) The community must be brought into this effort to ensure greater tolerance, greater social justice and greater respect for the rights of all;

"*Further emphasizing* that political leaders and Governments must promote greater solidarity among members of the community, and that public authorities at all levels must support locally initiated prevention efforts,

"*Considering* that the fear of crime is a problem for all citizens, particularly women and the elderly, while noting, however, that, in many instances, this fear is out of proportion to the true level of insecurity,

"*Mindful* that the factors conducive to crime include:

"(a) Poverty, unemployment, the lack of decent housing at reasonable cost and unsuitable education systems;

"(b) The increasing number of citizens who have no prospect of social integration, coupled with a worsening of the inequalities that give rise to a society moving at two speeds;

"(c) Loosening of social and family ties, accompanied by parental upbringing that is frequently made more difficult, if not totally lacking, by living conditions;

"(d) The difficult conditions under which people emigrate to the towns or to other countries;

"(e) The destruction of original cultural identities;

"(f) Changes in the urban environment that promote crime by creating residential areas deprived of any neighbourhood facilities;

"(g) The difficulties in a modern society for individuals to find their place in their communities, families or schools, and to identify with the prevailing culture;

"(h) Drug addiction, whose spread is particularly abetted by the other factors referred to above;

"(i) The increase in organized criminal activities, particularly drug trafficking and the receiving of stolen goods, the success of which require assistance from within the community;

"*Considering* that these problems are due to responsibilities at all levels (international, national, regional, local and individual) and are affected by various factors (historical, political, economic, cultural, psychological and moral),

"*Believing* that an effective policy to prevent crime and reduce insecurity can only succeed through consistent and simultaneous action in all of these areas and at all of these levels,

"*Convinced* of the need to develop working practices on a partnership basis, locally and nationally, so as to enable all those responsible to analyse the difficulties encountered and to formulate coherent and useful responses,

"*Convinced also* that police officers, judges, social workers, doctors and teachers and all concerned professionals must be given multidisciplinary training,

"1. *Recommends* that Member States take the necessary steps in the following areas:

"(a) *Childhood*

"(i) By developing:

"a. A policy in respect of very young children;

"b. Pre- and post-natal care and nutritional assistance for mothers and children;

"c. Suitable arrangements to provide nursery facilities and education for young children;

"d. A policy of support for single-parent families;

"(b) *Youth*

"(i) By developing:

"a. The civic qualities of young people through active involvement in local life and appropriate instruction regarding their rights and duties, and through the participation of the young in crime-prevention policies, with particular reference to health, leisure activities, training and employment;

"(ii) By providing:

"a. Young people with a good quality education and the possibility of acquiring the necessary qualifications to enter the working world or to become professionally established;

"(iii) By encouraging:

"a. Enterprises to offer suitable jobs to those who have failed at school or suffer from a handicap;

"(iv) By making:

"a. A particular effort to restore links between generations;

"(c) Family violence

"(i) By bringing about the complete integration of strategies to control family violence, sexual aggression and abusive treatment through educational programmes, assistance arrangements and the criminalization of acts of violence;

"(d) Housing and urban development

"(i) By ensuring that:

"a. Housing agencies provide dwellers with a full range of useful services for a satisfactory life and involve them in the administration of their habitat;

"(ii) By incorporating:

"a. Safety considerations in urban planning and rehabilitation programmes;

"(e) Drug addiction prevention

"(i) By developing, as a means of combating drug addiction, coherent prevention and education strategies, together with enforcement measures and arrangements for the care of drug addicts;

"(ii) By organizing, in schools at all levels, information programmes on drug-related problems;

"(iii) By instructing all those involved in social life in the problems of drug addiction, in particular in the need for vigilance;

"(f) Police

"(i) By ensuring that one of the essential tasks of the police is to prevent crime and that, in order to carry out this task, it must develop prevention initiatives that involve citizens and community organizations;

"(ii) By encouraging the police to work more closely with citizens and by stepping up their co-operation with other local officials to reduce the sense of insecurity;

"(g) Victims

"(i) By seeing to it that the citizens are properly received by the police and justice officials, that they are informed of the follow-up action taken on their complaints, and that they are able to benefit from concrete judicial responses and are entitled to compensation;

"(ii) By putting into place machinery to aid victims that is accessible to every victim easily, quickly and free of charge;

"(iii) By developing mediation and conciliation mechanisms to prevent conflicts, reduce their effects or prevent their aggravation, while at the same time ensuring that no pressure is placed on the victims;

"(h) Prevention of recidivism through criminal justice

"(i) By focusing particular attention on young offenders and on their social resettlement, in particular by facilitating their access to all forms of education, social assistance, training, health, employment placement services and public housing;

"(ii) By seeking the effective criminal-law responses through a diversification of sanctions to avoid imprisonment wherever possible;

"(iii) By making a particular effort, in the event of imprisonment, to avoid the excessively severe marginalization of the offender and the rupture of his or her personal or cultural ties, and by making available greater health, educational, cultural, sporting and leisure facilities in prisons, through co-operative arrangements with local partners, also ensuring that the resettlement of offenders and their release from confinement must, as far as possible, be facilitated by access to the public services available to the community at large;

"(i) Communication

"(i) By informing the citizens of the prevention programmes available both locally and nationally, and of their results;

"2. Draws the attention of the Member States to the following measures, which refer more specifically to the national level:

"(a) To encourage the efforts undertaken by the cities through national policies that provide regular and timely financing and that permit ongoing adjustment;

"(b) To combat poverty and unemployment;

"(c) To incorporate, in national crime prevention policies, programmes aimed specifically at children and the young;

"(d) To ensure the co-ordination of prevention efforts among the various public agencies as well as among the enterprises of the public and private sectors;

"(e) To give consideration to the growth of a private security sector in the implementation of programmes to combat criminality;

"(f) To develop research and to disseminate its results, establishing data banks on effective crime-control techniques and providing technical assistance to local officials;

"3. Invites the Member States to increase their co-operation in the field of crime prevention with the aid of the United Nations Secretariat, the regional and interregional institutions and the non-governmental organizations, specifically:

"(a) By strengthening technical and scientific co-operation between States for the purpose of developing:

"(i) Their own crime-control policies;

"(ii) International co-operation activities;

"(iii) Co-operation with developing countries;

"(b) By encouraging exchanges between cities implementing prevention programmes;

"4. Invites the secretariat to develop its initiating and co-ordination role, specifically:

"(a) By encouraging and co-ordinating the work of the regional and interregional institutes with a view to organizing more meetings and exchanges and to stepping up research and training;

"(b) By devising tools for the evaluation of public policies designed to combat crime;

"(c) By developing the international data bank that will keep all the local officials of our different countries informed of pilot programmes to combat crime;

"5. Requests the Secretariat of the United Nations to promote the objectives of the present resolution, specifically by ensuring it the widest possible dissemination, and to report at the Ninth Congress on the Prevention of Crime and the Treatment of Offenders on the implementation of this resolution by the States."

57. Subsequently, J. A. Montero Castro (Costa Rica), V. P. Ignatov (Union of Soviet Socialist Republics), B. Pandi (Central African Republic) and M. A. Sánchez Méndez (Colombia) joined in sponsoring the draft resolution.

58. Statements were made by E. J. H. Frencken (Belgium), J. A. Montero Castro (Costa Rica), V. P. Ignatov (Union of Soviet Socialist Republics), A. L. Tamini (Argentina), A. A. A. Shiddo (Sudan), R. de la Cruz Ochoa (Cuba), F. Murad (Saudi Arabia) and B. Miguel (Bolivia).

59. At the 11th meeting, on 16 February, S. A. Rozès (France), on behalf of D. Faulkner (United Kingdom of Great Britain and Northern Ireland), E. J. H. Frencken (Belgium), V. P. Ignatov (Union of Soviet Socialist Republics), J. A. Montero Castro (Costa Rica), B. Pandi (Central African Republic), V. Ramanitra (Madagascar) and M. A. Sánchez Méndez (Colombia), introduced a revised draft resolution (E/AC.57/1990/L.4/Rev.2) and further revised it orally as follows:

(a) In the ninth preambular paragraph, the words "women and the elderly" were replaced by the words "women, the elderly and the disabled";

(b) Operative paragraph 1 (a), which had read:

"(a) Childhood

(i) By developing:

"a. A policy in respect of very young children;

"b. Pre- and post-natal care and nutritional assistance for mothers and children;

"c. Suitable arrangements to provide nursery facilities and education for young children;

"d. A policy of support for single-parent families"

was replaced by the following text:

"(a) Childhood

(i) By developing a policy in respect of very young children, which would include:

"a. Pre- and post-natal care and nutritional assistance for mothers and children;

"b. Suitable arrangements to provide nursery facilities and education for young children, as well as orientation programes directly addressed to them;

"c. A policy of support for single-parent families".

60. At the same meeting, A. L. Tamini (Argentina) made a statement and proposed to amend the heading in operative paragraph 1 (c) by replacing the words "Family violence" by the words "The family".

61. Also at the same meeting, the Committee approved the draft resolution, as orally revised and amended, and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. 1, sect. C, Committee decision 11/102).

Continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

62. At the 10th meeting, on 12 February, R. de la Cruz Ochoa (Cuba), on behalf of B. Miguel (Bolivia), J. A. Montero Castro (Costa Rica), M. A. Sánchez Méndez (Colombia) and A. L. Tamini (Argentina), introduced a draft resolution (E/AC.57/1990/L.6) entitled "Continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders", which read as follows:

"The Committee on Crime Prevention and Control,

"Conscious of its responsibilities as the preparatory body for the United Nations congresses on the prevention of crime and the treatment of offenders,

"Recalling Economic and Social Council decision 1988/146 of 27 May 1988,

"Further recalling that many members of the Committee, at its tenth session, expressed support for the invitation and expressed gratitude to the Cuban Government for its generous offer,

"Appreciative of the success of all the preparatory activities carried out to secure the success of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, scheduled to take place at Havana from 27 August to 7 September 1990,

"Bearing in mind General Assembly resolution 44/72 of 8 December 1989,

"1. Expresses its conviction that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders will make a major contribution to a better understanding of and the finding of solutions to problems related to crime prevention and criminal justice;

"2. Welcomes Economic and Social Council decision 1989/134 of 24 May 1989, in which the Council decided to accept the invitation of the Government of Cuba to act as host to the Eighth Congress;

"3. Calls upon Member States, specialized agencies, and intergovernmental and non-governmental organizations to actively participate in the Eighth Congress;

"4. Requests the Secretary-General to ensure that the substantive and organizational work of the Eighth Congress is fully adequate for its successful outcome, including a strengthened information programme and to provide the required resources to that effect."

63. Statements were made by F. Murad (Saudi Arabia), J. A. Montero Castro (Costa Rica) and R. S. Clark (New Zealand).

64. At the 11th meeting, on 16 February, the Committee had before it a revised draft resolution (E/AC.57/1990/L.6/Rev.1), which was submitted by R. de la Cruz Ochoa (Cuba), B. Miguel (Bolivia), J. A. Montero Castro (Costa Rica), M. A. Sánchez Méndez (Colombia) and A. L. Tamini (Argentina).

65. At the same meeting, the Committee adopted the revised draft resolution (see chap. I, sect. D, Committee resolution 11/2).

Computerization of criminal justice

66. At the 11th meeting, on 16 February, D. Faulkner (United Kingdom of Great Britain and Northern Ireland), on behalf of R. L. Gainer (United States of America), F. A. Murad (Saudi Arabia) and M. Shikita (Japan), introduced a draft resolution (E/AC.57/1990/L.12/Rev.1) entitled "Computerization of criminal justice". A statement by the Secretary-General on the programme budget implications of the draft resolution was contained in document E/AC.57/1990/L.27.

67. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/103).

The Rome Declaration

68. At its 11th meeting, on 16 February, J. H. Frencken (Belgium), on behalf of A. K. Nasution (Indonesia) and S. A. Rozès (France), introduced a draft resolution (E/AC.57/1990/L.13) entitled "The Rome Declaration", which read as follows:

"A

"THE CUSTODIAL AND NON-CUSTODIAL TREATMENT OF OFFENDERS

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Bearing in mind the important role of the United Nations in the field of criminal justice through the medium of the quinquennial Congress on the Prevention of Crime and the Treatment of Offenders, "*Recalling* the Final Act adopted at Helsinki in 1975 by the participating States of the Conference on Security and Co-operation in Europe and the Concluding Document adopted by those States in 1989 at the follow-up Vienna Meeting 1986 of Representatives of the Participating States of the Conference, in which those States expressed their intention to strengthen co-operation, *inter alia*, in the areas of security and justice and the observance of human rights,

"*Bearing in mind* that the reports of the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders encourage the continuous elaboration of strategies for the practical implementation of the United Nations norms and guidelines in crime prevention and criminal justice systems through various forms of international co-operation,

"*Considering* that the European Meeting of Heads of Prison Administrations, held at Messina and Rome from 6 to 12 November 1989 in preparation for the Eighth United Nations Congress, provided an excellent opportunity for an exchange of information and experience between European countries,

"*Noting with appreciation* the close collaborative links established between the United Nations crime prevention and criminal justice programme and its human rights programme,

"*Recognizing* the necessity and relevance of imprisonment as a penal sanction against some offenders in the overriding interests of public safety,

"*Conscious* of the heavy demands made by the criminal justice system on the human and material resources of Member States,

"*Bearing in mind* the limited effectiveness of imprisonment as a mechanism of social defence, crime prevention and control,

"*Taking account* of the high economic and social costs of imprisonment as a penal sanction,

"*Acknowledging* the potentially adverse effects of imprisonment on the psychological, emotional and social aspects of the personality of the individual offender,

"*Bearing in mind* the potentially damaging consequences of imprisonment for the family and for the social relationships of the offender,

"*Taking into account* the effectiveness and lower economic and social cost of non-custodial sanctions,

"*Cognizant* of the need to intensify the search for credible non-custodial sanctions and to expand their application,

"*Reaffirming* that crime prevention, criminal justice and the treatment of offenders are important elements in the overall social defence and socio-economic development of States that embody respect for human rights and fundamental freedoms, "*Invites* Member States:

"(a) To consider limiting the scope of criminal law in relation to socially undesirable behaviour and to examine the extent to which offences might be decriminalized;

"(b) To consider also the extent to which the use of imprisonment might be replaced by non-custodial sanctions consistent with public safety;

"(c) To emphasize that non-custodial sanctions constitute sentences in their own right and should not be seen as merely substitutes for sentences of imprisonment;

"(d) To work towards the adoption and implementation of the draft United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules), including the necessary infrastructures and resources, and to foster favourable attitudes on the part of the community at large, especially legislators, judges, prosecutors and administrators;

"(e) To make available non-custodial sanctions as judicial sanctions;

"(f) To take into consideration, in the framework of non-custodial sanctions, the availability of alternatives to pre-trial custody that could be adopted more extensively;

"(g) To avoid, reduce or eliminate overcrowding in prisons by considering the use of a combination of factors: a reduction in the length of prison sentences available; the substitution of non-custodial sanctions or measures; and the reduction of pre-trial detention by facilitating pre-trial release or the use of bail and recognizances;

"(h) To limit the use of pre-trial detention to those cases essential to the preservation of public safety and the proper administration of justice;

"(i) To examine methods of ensuring that the access of persons in pre-trial detention to legal or other advice and assistance is not impeded and the conditions of detention are no more restrictive than is necessary to ensure the secure containment of such persons;

"(j) To work towards the more complete implementation of the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolution 663 CI (XXIV) of 31 July 1957) and the European Prison Rules;

"(k) To acknowledge that penal institutions are an integral part of the society they serve and that, in consequence, staff should be encouraged and enabled to play an active part in community affairs, as should prisoners so far as is consistent with public safety;

"(l) To develop the closest possible links between penal institutions and other national and local statutory and voluntary agencies and their local communities to limit the inherently deleterious effects of social isolation and to foster and maintain a sense of citizenship;

"(m) To develop the organizational and social structure of prisons so that they more nearly reflect the arrangements prevailing in society, of which the prisoners remain members and to which they will return, with particular reference to providing prisoners with the opportunity of exercising informed choice and of participating in decisions that govern their treatment and activity programmes, based on their individual needs in so far as these are consistent with the requirements of security and the maintenance of a safe and orderly environment;

"(n) To consider the scope for establishing a system that achieves a proper balance between the rights and responsibilities of members of society, with special regard to the victims of crime, those of the management and staff of penal institutions and those of the prisoners; account should be taken of the requirements of due process and the need to limit the range of discretion exercised by management and staff so as to prevent the use of arbitrary authority; this should be achieved by appropriate organizational structures and effective management procedures, the provision of effective complaints and grievance procedures, access to the courts, and regulatory and inspectorial arrangements including external supervision;

"(o) To examine ways in which reconciliation between offenders and their victims might be facilitated by the development of programmes designed to provide opportunities for mediation and reparation;

"(p) To consider also the need to review the managerial arrangements and working practices and their legal framework so as to reflect the implications of such an approach for the deployment of staff, their roles and responsibilities, and the relationship between prison officers and specialists and between prison officers and prisoners;

"(q) To pursue, in view of the above, new managerial arrangements and training programmes to establish and maintain the centrality of the role of prison officers, thereby contributing to the enhancement of their status and professional identity;

"(r) To establish and maintain a better understanding of the issues relating to penal systems through public education programmes and contact with the media and other interested organizations and institutions, so as to create a more positive image of all staff, whether they work in penal institutions or in the community, with responsibility for the maintenance of public safety and the reintegration of offenders into the community;

"(s) To consider how the status and public image of prison officers might be enhanced by the introduction of a new title that more accurately reflects their expanded role, together with a suitably styled uniform and appropriate conditions of service, pay and pension arrangements;

"(t) To establish appropriate training programmes to prepare and enable both management and staff to exercise their responsibilities within a legal and policy framework that determines their authority and accountability at all levels to make decisions and use discretion in relation to the individual treatment and personal development of prisoners, their security, care and control.

"B

"WORK, EDUCATION, LEISURE AND FAMILY VISITS

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Acknowledging the contribution of prison labour to the process of the rehabilitation and the reintegration of inmates into society,

"Noting with appreciation the research study on prison labour carried out by the United Nations Interregional Crime and Justice Research Institute,

"Drawing attention to the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolution 663 CI (XXIV) of 31 July 1957) and other international instruments in relation to prison labour,

"Emphasizing the need for further research, exchange of information and provision of technical assistance through the United Nations human rights and criminal justice programmes,

"Considering the universal right to education as a means of fully developing the human personality, as set out in article 26 of the Universal Declaration of Human Rights (General Assembly resolution 217 A (III) of 10 December 1948) and in article 13 of the International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200 A (XXI), annex, of 16 December 1966),

"Bearing in mind article 16 of the Universal Declaration of Human Rights and article 23 of the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex, of 16 December 1966), both of which proclaim, inter alia, that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State,

"Recalling rule 37 of the Standard Minimum Rules for the Treatment of Prisoners, which provides that prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits,

"Invites Member States:

"(a) To develop education in prisons, including the provision of adequate library services, and the employment of trained teachers and volunteers from the community, with a view to facilitating the resocialization of prisoners;

"(b) To permit prisoners to receive frequent and prolonged visits from family and friends in the most favourable conditions possible, in particular the provision of special facilities for children so as to minimize any social and psychological damage.

"C

"DRUGS

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Acknowledging* that drug-related issues deserve particular attention in view of their impact on the functioning of society and also the need to develop greater knowledge concerning the medical and social treatment of drug users,

"*Considering* that the abuse of drugs is a global problem of great complexity requiring social policies on preventive measures and treatment,

"*Recognizing* the adverse effects on the administration of the criminal justice system,

"*Acknowledging* however that drug use unconnected with other criminal activity is a matter of individual choice and has only limited effect on other members of society,

"*Invites* Member States to consider the extent to which they are able:

"(a) To differentiate in the application of the criminal law and in the nature and type of treatment provided to occasional users from those physically and/or psychologically dependent; to the user from the dealers; and to those whose offences are directly related to their drug dependence from those whose offences are not so related;

"(b) To give preference to the use of non-penal measures in relation to the personal use of drugs;

"(c) To provide medical, psychological and social treatment programmes for drug-dependent offenders, to be applied in appropriate cases, in the context of non-custodial sanctions;

"(d) To initiate or develop research programmes on the relationship between drug-dependence and crime.

"D

"HEALTH CARE

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Recalling* that in accordance with rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners sick prisoners in need of specialist treatment shall be transferred to specialized institutions or to civil hospitals;

"Aware of the need to provide resocialization opportunities for mentally disturbed and physically disabled prisoners;

"Invites Member States:

"(a) To arrange for the treatment of sick prisoners to be conducted in a multi-disciplinary context and to employ the services of specialized professional personnel;

"(b) To consider the human immunodeficiency virus, the acquired immunodeficiency syndrome, hepatitis and similar transmittable diseases as a growing public health issue concerning not only the wider community, but also the prison population and, in consequence, to provide information and encouragement to prisoners and staff to take the necessary measures to avoid the transmission of these diseases and, in the event of infection, to take the necessary measures to ensure their proper treatment including counselling;

"(c) To ensure that there is no discrimination on the grounds of infection.

"E

"JUVENILES

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Bearing in mind the principles and guarantees concerning the penal treatment of juveniles, contained in the International Covenant on Civil and Political Rights,

"Recalling in particular article 6 of the Covenant, which provides that a sentence of death shall not be imposed on persons below 18 years of age,

"Recalling further article 10 of the Covenant which, inter alia, provides that juvenile prisoners shall be separated from adults and should be accorded treatment appropriate to their age and legal status,

"Recalling also the adoption by the General Assembly in its resolution 40/33 of 29 November 1985 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, which Rules had been approved by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Noting with satisfaction the adoption by General Assembly resolution 44/25 of 5 December 1989 on the Convention on the Rights of the Child,

"Calls upon Member States to maintain progress towards the treatment of juveniles as a special category in the application of the criminal law and the administration of justice, with a view to excluding the use of imprisonment for life for persons below 18 years of age, and as far as possible to avoid the use of imprisonment for persons below 16 years of age.

"F

"INFORMATION TECHNOLOGY

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Considering that the application of modern technology is increasingly desirable in the interests of the proper administration of justice, and that an exchange of expertise and experience between European countries would facilitate the wider use of this technology,

"Conscious of the need to ensure that computerization should be implemented in a way that respects the human rights of prisoners,

"Mindful that computer applications will need to be purpose-designed to meet the requirements of national penal administration systems,

"Aware of the need to ensure that computerized systems being introduced into the field of penal administration are compatible with systems operating, or with systems to be introduced, in the wider criminal justice system and in other social agencies,

"Encourages Member States to introduce and develop compatible computerized information systems for improving prison management and links with other criminal justice agencies.

"G

"INTERNATIONAL CO-OPERATION

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Emphasizing the role of research and studies in promoting effective and humane prison administration and the significance of co-operation in the field of training, research, exchange of documentation and information,

"Taking into account the possibility of establishing a permanent centre that will collaborate with international organizations and research and training institutes,

"Bearing in mind that the exchange of expertise and experience in the administration of prisons in Europe will assist each Member State in discharging its responsibility in this area,

"1. Expresses deep appreciation of the proposal of the Ministry of Justice of the Government of Italy to provide facilities for the establishment of a centre for European co-operation, which could usefully contribute to more effective European co-operation by:

"(a) Collecting and disseminating documentation on national legislation, regulations, research and studies as well as statistical data on penal and penitentiary matters;

"(b) Organizing training at the international level, as well as an exchange of personnel and fellowships for penitentiary staff;

"(c) Providing facilities for an exchange of methodological experience and training materials in these areas;

"(d) Assisting in the implementation of United Nations recommendations on collaboration within the penitentiary field;

"2. Expresses the wish that the Ministry of Justice of the Government of Italy should formulate proposals on the purpose, cost, method of operation and staffing of the proposed centre;

"3. Invites the European Member States to consider the development of this form of co-operation;

"4. Also invites the Ministry of Justice of the Government of Italy to consider preparing and publishing a yearbook containing different national prison rules and regulations in the countries of Europe and other regions;

"5. Calls upon the countries of Europe to co-operate in this effort by providing the necessary information and exploring the possibility of making financial contributions, as required;

"6. Encourages faculties of law and social sciences as well as research institutes to develop comparative research, studies and courses on penitentiary problems;

"7. Invites the United Nations Interregional Crime and Justice Research Institute and the International Centre for Penal and Sociological Research to consider the preparation and publication of a glossary of terms relating to the prevention of crime and treatment of offenders in all the official United Nations languages in co-operation with intergovernmental and non-governmental organizations interested in issuing such a glossary so as to facilitate a better understanding of common terminology;

"8. Recommends that regional European meetings of heads of national prison administrations should be convened regularly and invites Member States to consider hosting these meetings in their countries;

"9. Encourages Governments of other regions, which have not yet done so, to consider convening similar meetings in co-operation with interregional and regional institutes;

"10. Recommends also that an interregional workshop of heads of national prison administrations should be convened for the follow-up and implementation of the resolutions and recommendations of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to consider new ways and means of strengthening co-operation between States and of providing technical assistance to interested Governments in prison administration and human rights;

"11. Invites, for this purpose, the Secretary-General of the United Nations to make available resources from the United Nations Trust Fund for Social Defence and the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights;

"12. Invites, therefore, Member States to make earmarked voluntary contributions to these funds for this purpose;

"13. Invites also relevant non-governmental and other professional organizations, as well as the scientific community, to support the organization of this workshop substantially, financially and logistically;

"14. Invites Governments to consider using increasingly the provision to transfer foreign prisoners to their country of normal residence to serve their sentence;

"15. Invites Governments to explore, at the Eighth United Nations Congress, the possibility of a new convention permitting the transfer of the supervision of foreign offenders conditionally sentenced, conditionally released or sentenced to a non-custodial sanction."

69. At the 12th meeting, on 16 February, M. Shikita (Japan) made a statement in which he informed the Committee of the revisions agreed upon during the informal consultations held on the draft resolution. The revised draft resolution read as follows:

"A

"THE CUSTODIAL AND NON-CUSTODIAL TREATMENT OF OFFENDERS

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Bearing in mind the important role of the United Nations in the field of criminal justice through the medium of the quinquennial Congress on the Prevention of Crime and the Treatment of Offenders,

"Recalling the Final Act adopted at Helsinki in 1975 by the participating States of the Conference on Security and Co-operation in Europe and the Concluding Document adopted by those States in 1989 at the follow-up Vienna Meeting 1986 of Representatives of the Participating States of the Conference, in which those States expressed their intention to strengthen co-operation, *inter alia*, in the areas of security and justice and the observance of human rights,

"Bearing in mind that the reports of the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders encourage the continuous elaboration of strategies for the practical implementation of the United Nations norms and guidelines in crime prevention and criminal justice systems through various forms of international co-operation,

"Considering that the European Meeting of Heads of Prison Administrations, held at Messina and Rome from 6 to 12 November 1989 in preparation for the Eighth United Nations Congress, provided an excellent opportunity for an exchange of information and experience between European countries,

"Noting with appreciation the close collaborative links established between the United Nations crime prevention and criminal justice programme and its human rights programme,

"Recognizing the necessity and relevance of imprisonment as a penal sanction against some offenders in the overriding interests of public safety,

"Conscious of the heavy demands made by the criminal justice system on the human and material resources of Member States,

"Taking account of the high economic and social costs of imprisonment as a penal sanction,

"Acknowledging the effects of imprisonment on the psychological, emotional and social aspects of the personality of the individual offender,

"Bearing in mind the potentially damaging consequences of imprisonment for the family and for the social relationships of the offender,

"Taking into account the effectiveness and lower economic and social cost of non-custodial sanctions,

"Cognizant of the need to intensify the search for credible non-custodial sanctions and to expand their application,

"Reaffirming that crime prevention, criminal justice and the treatment of offenders are important elements in the overall social defence and socio-economic development of States that embody respect for human rights and fundamental freedoms,

"Invites Member States:

"(a) To examine the extent to which offences might be decriminalized;

"(b) To consider also the extent to which the use of imprisonment might be replaced by non-custodial sanctions consistent with public safety;

"(c) To emphasize that non-custodial sanctions constitute sentences in their own right and should not be seen as merely substitutes for sentences of imprisonment;

"(d) To work towards the adoption and implementation of the draft United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules), including the necessary infrastructures and resources, and to foster favourable attitudes on the part of the community at large, especially legislators, judges, prosecutors and administrators;

"(e) To make available non-custodial sanctions as judicial sanctions;

"(f) To take into consideration, in the framework of non-custodial sanctions, the availability of alternatives to pre-trial custody that could be adopted more extensively;

"(g) To avoid, reduce or eliminate overcrowding in prisons by considering the use of a combination of factors: a reduction in the length of prison sentences available; the substitution of non-custodial sanctions or measures; and the reduction of pre-trial detention by facilitating pre-trial release or the use of bail and recognizances;

"(h) To limit the use of pre-trial detention to those cases essential to the preservation of public safety and the proper administration of justice;

"(i) To examine methods of ensuring that the access of persons in pre-trial detention to legal or other advice and assistance is not impeded and the conditions of detention are no more restrictive than is necessary to ensure the secure containment of such persons;

"(j) To work towards the more complete implementation of the Standard Minimum Rules for the Treatment of Prisoners adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the European Prison Rules;

"(k) To acknowledge that penal institutions are an integral part of the society they serve and that, in consequence, staff should be encouraged and enabled to play an active part in community affairs, as should prisoners so far as is consistent with public safety;

"(l) To develop the closest possible links between penal institutions and other national and local statutory and voluntary agencies and their local communities to limit the inherently deleterious effects of social isolation and to foster and maintain a sense of citizenship;

"(m) To develop the organizational and social structure of prisons so that they more nearly reflect the arrangements prevailing in society, of which the prisoners remain members and to which they will return based on their individual needs in so far as these are consistent with the requirements of security and the maintenance of a safe and orderly environment;

"(n) To consider the scope for establishing a system that achieves a proper balance between the rights and responsibilities of members of society, with special regard to the victims of crime, those of the management and staff of penal institutions and those of the prisoners; account should be taken of the requirements of due process and the need to limit the range of discretion exercised by management and staff so as to prevent the use of arbitrary authority; this should be achieved by appropriate organizational structures and effective management procedures, the provision of effective complaints and grievance procedures, access to the courts, and regulatory and inspectorial arrangements;

"(o) To examine ways in which reconciliation between offenders and their victims might be facilitated by the development of programmes designed to provide opportunities for mediation and reparation;

"(p) To consider also the need to review the managerial arrangements and working practices and their legal framework so as to reflect the implications of such an approach for the deployment of staff, their roles and responsibilities, and the relationship between prison officers and specialists and between prison officers and prisoners;

"(q) To pursue, in view of the above, new managerial arrangements and training programmes to establish and maintain the centrality of the role of prison officers, thereby contributing to the enhancement of their status and professional identity;

"(r) To establish and maintain a better understanding of the issues relating to penal systems through public education programmes and contact with the media and other interested organizations and institutions, so as to create a more positive image of all staff, whether they work in penal institutions or in the community, with responsibility for the maintenance of public safety and the reintegration of offenders into the community;

"(s) To consider how the status and public image of prison officers might be enhanced by the introduction of a new title that more accurately reflects their expanded role, together with a suitably styled uniform and appropriate conditions of service, pay and pension arrangements;

"(t) To establish appropriate training programmes to prepare and enable both management and staff to exercise their responsibilities within a legal and policy framework that determines their authority and accountability at all levels to make decisions and use discretion in relation to the individual treatment and personal development of prisoners, their security, care and control.

"B

"WORK, EDUCATION, LEISURE AND FAMILY VISITS

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Acknowledging the contribution of prison labour to the process of the rehabilitation and the reintegration of inmates into society,

"Noting with appreciation the research study on prison labour carried out by the United Nations Interregional Crime and Justice Research Institute,

"Drawing attention to the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolution 663 CI (XXIV) of 31 July 1957) and other international instruments in relation to prison labour, "*Emphasizing* the need for further research, exchange of information and provision of technical assistance through the United Nations human rights and criminal justice programmes,

"*Considering* the universal right to education as a means of fully developing the human personality, as set out in article 26 of the Universal Declaration of Human Rights (General Assembly resolution 217 A (III) of 10 December 1948) and in article 13 of the International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200 A (XXI), annex, of 16 December 1966),

"*Bearing in mind* article 16 of the Universal Declaration of Human Rights and article 23 of the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex, of 16 December 1966), both of which proclaim, *inter alia*, that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State,

"*Recalling* rule 37 of the Standard Minimum Rules for the Treatment of Prisoners, which provides that prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits,

"*Invites* Member States:

"(a) To develop education in prisons, including the provision of adequate library services, and the employment of trained teachers and volunteers from the community, with a view to facilitating the resocialization of prisoners;

"(b) To permit prisoners to receive frequent and prolonged visits from family and friends in the most favourable conditions possible, in particular the provision of special facilities for children so as to minimize any social and psychological damage.

"C

"DRUGS

"*The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*,

"*Acknowledging* that drug-related issues deserve particular attention in view of their impact on the functioning of society and also the need to develop greater knowledge concerning the medical and social treatment of drug users,

"*Considering* that the abuse of drugs is a global problem of great complexity requiring social policies on preventive measures and treatment,

"*Recognizing* the adverse effects on the administration of the criminal justice system,

"*Invites* Member States to consider the extent to which they may wish:

"(a) To differentiate in the application of the criminal law and in the nature and type of treatment provided to occasional users from those physically and/or psychologically dependent; to the user from the dealers; and to those whose offences are directly related to their drug dependence from those whose offences are not so related;

"(b) To give preference to the use of non-penal measures in relation to the personal use of drugs;

"(c) To provide medical, psychological and social treatment programmes for drug-dependent offenders, to be applied in appropriate cases, in the context of non-custodial sanctions;

"(d) To initiate or develop research programmes on the relationship between drug dependence and crime.

"D

"HEALTH CARE

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Recalling that in accordance with rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners sick prisoners in need of specialist treatment shall be transferred to specialized institutions or to civil hospitals;

"Aware of the need to provide resocialization opportunities for mentally disturbed and physically disabled prisoners;

"Invites Member States:

"(a) To arrange for the treatment of sick prisoners to be conducted in a multi-disciplinary context and to employ the services of specialized professional personnel;

"(b) To consider the human immunodeficiency virus, the acquired immunodeficiency syndrome, hepatitis and similar transmittable diseases as a growing public health issue concerning not only the wider community, but also the prison population and, in consequence, to provide information and encouragement to prisoners and staff to take the necessary measures to avoid the transmission of these diseases and, in the event of infection, to take the necessary measures to ensure their proper treatment including counselling;

"(c) To ensure that there is no discrimination on the grounds of infection.

"E

"JUVENILES

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Bearing in mind the principles and guarantees concerning the penal treatment of juveniles, contained in the International Covenant on Civil and Political Rights,

"Recalling in particular article 6 of the Covenant, which provides that a sentence of death shall not be imposed on persons below 18 years of age,

"Recalling further article 10 of the Covenant which, inter alia, provides that juvenile prisoners shall be separated from adults and should be accorded treatment appropriate to their age and legal status,

"Recalling also the adoption by the General Assembly in its resolution 40/33 of 29 November 1985 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, which Rules had been approved by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Noting with satisfaction the adoption by General Assembly resolution 44/25 of 20 November 1989 on the Convention on the Rights of the Child,

"Calls upon Member States to maintain progress towards the treatment of juveniles as a special category in the application of the criminal law and the administration of justice, and as far as possible, to avoid the use of imprisonment for persons below 16 years of age.

"F

"INFORMATION TECHNOLOGY

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Considering that the application of modern technology is increasingly desirable in the interests of the proper administration of justice, and that an exchange of expertise and experience between European countries would facilitate the wider use of this technology,

"Conscious of the need to ensure that computerization should be implemented in a way that respects the human rights of prisoners,

"Mindful that computer applications will need to be purpose-designed to meet the requirements of national penal administration systems,

"Aware of the need to ensure that computerized systems being introduced into the field of penal administration are compatible with systems operating, or with systems to be introduced, in the wider criminal justice system and in other social agencies, "Encourages Member States to introduce and develop compatible computerized information systems for improving prison management and links with other criminal justice agencies.

"G

"INTERNATIONAL CO-OPERATION

"The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Emphasizing the role of research and studies in promoting effective and humane prison administration and the significance of co-operation in the field of training, research, exchange of documentation and information,

"Taking into account the possibility of establishing a permanent centre that will collaborate with international organizations and research and training institutes,

"Bearing in mind that the exchange of expertise and experience in the administration of prisons in Europe will assist each Member State in discharging its responsibility in this area,

"1. Expresses deep appreciation of the proposal of the Ministry of Justice of the Government of Italy to provide facilities for the establishment of a centre for European co-operation, which could usefully contribute to more effective European co-operation by:

"(a) Collecting and disseminating documentation on national legislation, regulations, research and studies as well as statistical data on penal and penitentiary matters;

"(b) Organizing training at the international level, as well as an exchange of personnel and fellowships for penitentiary staff;

"(c) Providing facilities for an exchange of methodological experience and training materials in these areas;

"(d) Assisting in the implementation of United Nations recommendations on collaboration within the penitentiary field;

"2. Expresses the wish that the Ministry of Justice of the Government of Italy should formulate proposals on the purpose, cost, method of operation and staffing of the proposed centre;

"3. Invites the European Member States to consider the development of this form of co-operation taking into account, *inter alia*, the results achieved in the activities in this area of the European Organizations including the Council of Europe;

"4. Also invites the Ministry of Justice of the Government of Italy to consider preparing and publishing a yearbook containing different national prison rules and regulations in the countries of Europe and other regions;

"5. Calls upon the countries of Europe to co-operate in this effort by providing the necessary information and exploring the possibility of making financial contributions, as required;

"6. Encourages faculties of law and social sciences as well as research institutes to develop comparative research, studies and courses on penitentiary problems;

"7. Invites the United Nations Interregional Crime and Justice Research Institute and the International Centre for Penal and Sociological Research to consider the preparation and publication of a glossary of terms relating to the prevention of crime and treatment of offenders in all the official United Nations languages in co-operation with intergovernmental and non-governmental organizations interested in issuing such a glossary so as to facilitate a better understanding of common terminology;

"8. Recommends that regional European meetings of heads of national prison administrations should be convened regularly and invites Member States to consider hosting these meetings in their countries;

"9. Emphasizing the importance of the annual meeting of the heads of prison administration in the Asian and Pacific regions;

"10. Encourages Governments of other regions, which have not yet done so, to consider convening similar meetings in co-operation with interregional and regional institutes;

"11. Recommends also that an interregional workshop of heads of national prison administrations should be convened for the follow-up and implementation of the resolutions and recommendations of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to consider new ways and means of strengthening co-operation between States and of providing technical assistance to interested Governments in prison administration and human rights;

"12. Invites, for this purpose, the Secretary-General of the United Nations to make available resources from the United Nations Trust Fund for Social Defence and the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights;

"13. Invites, therefore, Member States to make earmarked voluntary contributions to these funds for this purpose;

"14. Invites also relevant non-governmental and other professional organizations, as well as the scientific community, to support the organization of this workshop substantially, financially and logistically;

"15. Invites Governments to consider using increasingly the provision to transfer foreign prisoners to their country of normal residence to serve their sentence."

70. Statements were made by A. L. Tamini (Argentina), J. H. Frencken (Belgium), J. Polimeni (Italy), R. de la Cruz Ochoa (Cuba), A. L. O. Metzger (Sierra Leone) and the Chief of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs.

71. At the same meeting, on the proposal of the Chairman, the Committee decided to recommend that the Economic and Social Council refer the draft resolution, as revised, to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders for further consideration and appropriate action.

International co-operation for crime prevention and criminal justice in the context of development

72. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.15) entitled "International co-operation for crime prevention and criminal justice in the context of development".

73. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/104).

Management of criminal justice and development of sentencing policies

74. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.17) entitled "Management of criminal justice and development of sentencing policies".

75. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/105).

Model treaty on extradition

76. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.18) entitled "Model Treaty on Extradition".

77. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/106).

Basic principles on the use of force and firearms by law enforcement officials

78. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.19) entitled "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials".

79. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United

Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/107).

United Nations standard minimum rules for non-custodial measures (the Tokyo Rules)

80. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.20) entitled "United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules)".

81. Statements were made by T. P. F. De Silva (Sri Lanka), A. A. A. Shiddo (Sudan), M. Shikita (Japan), A. L. O. Metzger (Sierra Leone), E. L. Tamini (Argentina) and V. Ramanitra (Madagascar).

82. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/108).

Basic principles on the role of lawyers

83. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.21) entitled "Basic Principles on the Role of Lawyers".

84. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/109).

Prevention and control of organized crime

85. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.22) entitled "Prevention and control of organized crime".

86. AT the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/110).

Terrorist criminal activities

87. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.23) entitled "Terrorist criminal activities".

88. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/111).

Continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

89. At the 11th meeting, on 16 February, D. Cotic (Yugoslavia), in his capacity as Chairman of the Committee, introduced a draft resolution (E/AC.57/1990/L.26) entitled "Continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders".

90. At the same meeting, R. S. Clark (New Zealand) made a statement and proposed an amendment to the draft resolution by which the words "professional organizations and experts" would be inserted after the words "in consultative status with the Economic and Social Council" in operative paragraph 11.

91. At the same meeting, the Committee approved the draft resolution, as orally amended, and recommended its adoption to the Economic and Social Council (see chap. I, sect. A, draft resolution VI).

Model treaty on mutual assistance in criminal matters

92. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.28) entitled "Model Treaty on Mutual Assistance in Criminal Matters".

93. At the 12th meeting, on 16 February, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/112).

Protection of the human rights of victims of crime and abuse of power

94. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.29) entitled "Protection of the human rights of victims of crime and abuse of power".

95. At the same meeting, D. Faulkner (United Kingdom of Great Britain and Northern Ireland) made a statement and proposed an amendment to operative paragraph 3 whereby the words "take the appropriate measures in order to make the legislation comply with the Declaration" would be replaced by the words "take into account the provisions of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in framing their national legislation".

96. At the same meeting, the Committee approved the draft resolution, as orally amended, and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/113).

The role of criminal law in the protection of nature and the environment

97. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.30) entitled "The role of criminal law in the protection of nature and the environment".

98. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/114).

Basic principles for the treatment of prisoners

99. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.31) entitled "Basic principles for the treatment of prisoners".

100. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/115).

Guidelines on the role of prosecutors

101. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.33) entitled "Guidelines on the Role of Prosecutors".

102. At the 12th meeting, on 16 February, the Chief of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs made a statement.

103. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/116).

United Nations guidelines for the prevention of juvenile delinquency (the Riyadh guidelines)

104. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.36) entitled "United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)".

105. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/117).

United Nations rules for the protection of juveniles deprived of their liberty

106. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.3) entitled "United Nations Rules for the Protection of Juveniles Deprived of Their Liberty".

107. At the 12th meeting, on 16 February, A. L. Tamini (Argentina) made a statement and proposed to ammend paragraph 60 of the annex to the draft resolution by deleting the words "addressed to him or her" at the end of the paragraph.

108. At the same meeting, A. A. A. Shiddo (Sudan) proposed to amend paragraph 10 (a) of the annex to the draft resolution by deleting the words "unless under the respective legal system, civil majority is attained earlier" at the end of the first sentence.

109. Statements were made by B. Pandi (Central African Republic), R. de la Cruz Ochoa (Cuba), A. L. O. Metzger (Sierra Leone) and M. Shikita (Japan).

110. Also at the same meeting, the Committee approved the draft resolution, as orally amended, and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/118).

Draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property

111. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.38) entitled "Draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property".

112. At the 12th meeting, on 16 February, statements were made by A. L. Tamini (Argentina), A. L. O. Metzger (Sierra Leone) and the Chairman of the Committee.

113. At the same meeting, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, on the understanding that the text of the draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property would be subject to further improvement, taking into account the comments made by members of the Committee (see chap. I, sect. C, Committee decision 11/119).

Model treaty on the transfer of proceedings in criminal matters

114. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of the Group and introduced a draft resolution (E/AC.57/1990/L.39) entitled "Model Treaty on the Transfer of Proceedings in Criminal Matters".

115. At the 12th meeting, on 16 February, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/120).

Model treaty on the transfer of supervision of offenders conditionally sentenced or conditionally released

116. At the 11th meeting, on 16 February, A. L. O. Metzger (Sierra Leone), in his capacity as Chairman of Working Group I, reported to the Committee on the work of

the Group and introduced a draft resolution (E/AC.57/1990/L.40) entitled "Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released".

117. At the 12th meeting, on 16 February, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/121).

Chapter V

REVIEW OF THE FUNCTIONING AND PROGRAMME OF WORK OF THE UNITED NATIONS IN CRIME PREVENTION AND CRIMINAL JUSTICE

1. The Committee considered agenda item 6 at the 7th, 8th, 9th, 11th and 12th meetings, on 8, 9 and 16 February 1990. It had before it a note by the Secretary-General on the results of the review undertaken by a sub-committee (E/AC.57/1990/6), which had been appointed by the Chairman of the Committee on Crime Prevention and Control in accordance with Committee resolution 10/1.

2. In his introductory statement, the former Chairman of the Committee, who served as the Chairman of the sub-committee, mentioned that the sub-committee had met at Riyadh on 18 and 19 January 1989, with the support of the Arab Security Studies and Training Centre. The meeting was attended by members of the Bureau of the Committee and other designated experts, as well as by the directors of the regional and interregional institutes for the prevention of crime and the treatment of offenders, the Arab Security Studies and Training Centre and the Australian Institute of Criminology.

3. The sub-committee's report stressed that crime control ranked at the forefront of governmental responsibilities and was a prerequisite for national progress. Indicating that the available mechanisms for assisting countries with problems of crime and justice were still deficient, the sub-committee called for greatly strengthened international assistance to help States to deal with problems of national and transnational crime by the creation of a genuinely effective international crime and justice programme, using the modality of an international convention.

4. The Chairman of the sub-committee noted that, despite the Organization's budgetary limitations, other United Nations programmes had been allotted additional resources, while the crime prevention programme was still suffering from severe constraints. It seemed to operate at a continuing disadvantage, in spite of the calls for improvement of the situation. That state of affairs could not continue. It was necessary to get to the root of the problem and to take appropriate action, as suggested in the sub-committee's report. It was not a matter of assigning blame but, rather, of identifying weaknesses in the system that created that unsatisfactory situation.

5. In commenting on the sub-committee's report, one of the rapporteurs pointed out that it was aimed at government policymakers and not only at crime prevention and criminal justice professionals. Its objective was to increase the United Nations capacity and effectiveness in responding to the pervasive needs of countries in that field, as well as strengthening international co-operation in dealing with the increasingly transnational crime problems.

6. Another rapporteur pointed out the anomaly between the extensive responsibilities to be discharged and the limited resources available for that United Nations programme. A more effective programme in that field involved a number of elements, including an international criminal code and a court whose jurisdiction would have to be defined. A basic restructuring of the United Nations mechanisms dealing with crime prevention and control was necessary, with

appropriate qualitative and quantitative changes, including the requisite financing for the programme.

7. The third rapporteur echoed the call for a greatly strengthened United Nations crime and justice programme commensurate with national and international requirements. Since the various resolutions adopted on the subject had not yielded the desired results, it was felt that an international convention would provide the framework for reinforced and consolidated United Nations action in the crime field.

8. There was accord in welcoming the report and many participants congratulated the sub-committee on the important work it had done. The report should be given to politicians and other decision makers, so that they became fully aware of the crime problems and the necessity of concerted action.

9. Participants agreed that the report articulated the concerns expressed by the Committee members over the years in their calls for a more vigorous United Nations crime prevention and criminal justice programme that would meet the mounting needs. It was pointed out that the report correctly reflected the disturbing world crime situation, though its language might require some adjustment. The improved political climate was not accompanied by enhanced security and safety; the relaxation of international tensions permitted countries to focus on internal peace, but in the longer run, stronger United Nations leadership and assistance had to be provided for that purpose.

10. Unquestionably, decisive steps had to be taken to remedy a situation that prevented a suitable level of international activity in dealing with crime and justice. Viable action in that problem area was central to national well-being and developmental progress. Within a reasonable time-frame, a new international crime and justice programme was clearly needed, with an increased scope and capability to meet the proliferating needs of Member States, especially of developing countries. A more effective system of international co-operation against crime was also mandated by the growing transnationalization of crime, which called for a commensurate response. It was agreed that while excellent work had been done by the Branch under serious constraints, an increased capability was necessary to respond to the requirements imposed by the widening extent and new, threatening forms of crime. Since the crime situation caused widespread alarm and involved new, sophisticated forms of crime, high-level attention to it was essential. To mobilize it, the convening of a summit meeting on crime and justice was proposed.

11. Some participants emphasized the necessity of the United Nations crime programme having greater leverage so that it could fulfil its essential tasks. Several Committee members stressed the seriousness of the crime situation in their regions and the need for a more effective international response. Member States, especially developing countries, urgently required practical assistance, and a vigorous technical assistance and co-operation programme should be part of any new programme. Studies on crime trends and measures to combat criminality were badly needed, including effective regional and global strategies. The exchange of expertise and experience was extremely important, and the developed countries should help their counterparts in the third world in that regard. Some countries suffered from the negative effects of transnational crimes, such as the dumping of nuclear wastes, which should be halted and made subject to international control. In view of its key importance, crime prevention deserved to rank beside other major governmental and international concerns since it was essential for stable and sustained development: as such, it should be included in development planning and in the mainstream of United Nations activities.

12. It was commendable, some participants noted, that so much had been achieved inspite of the difficulties, and that a considerable impact had been made; it showed what could be accomplished with commitment and hard work. But that did not negate the fact that there existed a considerable imbalance between the workload deriving from the increased mandates, and the limited institutional capacity to fulfil them. There was a wide spectrum of needs that had to be met. The current crime picture showed that corrective action was urgently required. The time for piecemeal remedies had passed. There was agreement that something drastic had to be done to change the situation so as to give the United Nations crime programme its due and permit it to better fulfil its potential in the service of Governments and the international community. There were some differences of opinion as to how that could best be achieved.

13. Many participants called for the elaboration of a convention on crime prevention and criminal justice in order to provide a framework for the programme and to stipulate the obligations of States parties. However, several participants felt that a convention would not, of itself, attract the necessary financial support. It was pointed out that while a convention was a long-term goal, there were certain immediate steps that had to be taken. It was also agreed that there was no dichotomy between convention and programme, since a convention would be an element of the programme and a possible framework for it. There was some discussion about the type of convention to be formulated and how that process could be carried forward.

14. There were two basic ways of approaching a convention: first, as an instrument consolidating all the existing crime prevention and criminal justice provisions of multilateral and bilateral treaties, agreements and norms; and second, as a framework for international co-operation in crime and justice, in general. Its main goal would be to provide the international community with a solid basis for a more effective world-wide programme in the crime field.

15. Many experts felt that a convention was desirable as it could provide a strong basis and vehicle for the United Nations crime programme that was as yet lacking. The Eighth Congress could well give the mandate for it. Since the development of a convention was a protracted process, appropriate steps also had to be taken in the near future to alleviate the situation. One observer conveyed his country's offer of assistance and host facilities for expert meetings devoted to the development of the convention.

16. Some experts, who questioned the likelihood of a convention serving as a panacea, focused mainly on programme content and modalities. Although the subjects to be dealt with were undoubtedly important, it was pointed out that priorities varied between countries and over time. It was thus rather a matter of establishing some basic principles and developing the machinery that would permit a more effective response both to the various concerns of Governments and to international concerns.

17. Some participants indicated that, if other avenues failed, it might be necessary to establish a special crime prevention agency: the specialized agencies, the Office of the United Nations High Commissioner for Refugees and the United Nations Children's Fund were cited as possible models. Others suggested that new mechanisms should be developed within the existing United Nations system and that energies should be directed towards implementing a new, integrated and practical crime prevention and criminal justice programme focusing on certain priority areas, with a clear indication of the prospective costs and benefits.

18. Most participants stressed that any new organizational structure should be a United Nations entity because the United Nations was the organization that could provide the necessary framework and consolidate the efforts of the international community. It was also pointed out that through conventions States committed themselves to certain obligations, but that those did not necessarily have programme or financial implications. The political will had to be mobilized to advance further, and that meant convincing Governments of the advantages to be gained from the new programme.

19. It was also proposed that in order to increase the input of Governments, an intergovernmental commission might be established which, with the Committee serving as an expert body, would provide a two-tier arrangement, similar to that existing in the area of human rights. It was suggested that the sub-committee should have a continuing follow-up and monitoring role.

20. Ways of highlighting the programme and attracting support had to be imaginatively explored. An exciting possibility that should be pursued was the holding of a summit meeting, for instance after the Congress: it would draw attention to the needs and issues, and might provide a platform for the adoption of a convention. It would be a major political event that would serve to strengthen international co-operation in the crime field and the United Nations role in it. But since it would be short, it had to be well prepared. It was hoped that in the working group concrete proposals would be made and existing ones clarified so that optimal decisions could be taken. Since there was unanimity on the basic aim of a much stronger United Nations crime and justice programme, the articulation of the modalities for achieving it should be the logical next step, whose direction the sub-committee had already indicated, but which should be made concrete.

21. Responding to the comments made, the Director-General of the United Nations Office at Vienna and Secretary-General of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders stated that while she shared the Committee's frustration with the current situation and lack of adequate means, a convention or new organization would not automatically ensure proper funding. Admittedly, the Crime Prevention and Criminal Justice Branch did not have enough resources, but neither did other offices of the United Nations Office at Vienna, which were also being asked to do more with less. The Director-General quoted updated figures on the financial and staff resources situation of the Branch. The constraints in the regular budget were real and likely to continue. Extrabudgetary funds thus seemed to be the only immediate solution, to be sought within the existing United Nations structure. She noted that some extrabudgetary support had been provided and expressed her appreciation of it. But she agreed that further resources were needed and looked to the Committee for suggestions on how they could be obtained. She hoped that they would be realistic. The current international financial climate did not seem propitious to the creation of a new crime prevention agency. She was sympathetic to the staff needs of the crime and justice programme and had hoped to strengthen it through redeployment, but, in 1989, the General Assembly had decided against the projected transfer of some posts to Vienna. However, proposals for strengthening the United Nations Office at Vienna were to be submitted to the Secretary-General and the relevant needs would be considered in the exercise. Some added resources were provided for the Congress, and some contributions in kind were expected. Extrabudgetary means seemed to be the only major possibility for the time being, and she would do her best to help obtain such further support. It was also necessary to keep the programme linked with other related areas in the United Nations Office at Vienna in order to maintain a truly integrated approach to social issues.

22. The issues raised in plenary meeting were further discussed in a working group and in a drafting group established by it. The working group proposed some revisions to the sub-committee's report for incorporation in the final version to be submitted to the Eighth Congress as a report of the Committee.

Action taken by the Committee

Education, training and public awareness in the field of crime prevention

23. At the 11th meeting, on 16 February, R. L. Gainer (United States of America), on behalf of J. A. Montero Castro (Costa Rica), F. A. Murad (Saudi Arabia) and A. A. A. Shiddo (Sudan), introduced a draft resolution (E/AC.57/1990/L.14) entitled "Education, training and public awareness in the field of crime prevention".

24. A statement of the programme budget implications of the draft resolution, submitted by the Secretary-General in accordance with rule 31 of the rules of procedure of the Economic and Social Council, was circulated in document E/AC.57/1990/L.25.

25. At the same meeting, the Committee approved the draft resolution and recommended its adoption to the Economic and Social Council (see chap. I, sect. A, draft resolution VII).

Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice

26. At the 12th meeting, on 16 February, G. Polimeni (Italy), on behalf of the Chairman of Working Group II, introduced the report entitled "The need for the creation of an effective international crime and justice programme" (E/AC.57/1990/L.32).

27. Statements were made by D. Faulkner (United Kingdom of Great Britain and Northern Ireland), A. L. O. Metzger (Sierra Leone), R. S. Clark (New Zealand), J. Polimeni (Italy). The Secretary of the Committee also made a statement.

28. At the same meeting, G. Polimeni (Italy), on behalf of R. S. Clark (New Zealand), D. Faulkner (United Kingdom of Great Britain and Northern Ireland), R. L. Gainer (United States of America), V. P. Ignatov (Union of Soviet Socialist Republics), F. A. Murad (Saudi Arabia), S. A. Rozès (France), A. A. A. Shiddo (Sudan) and M. Shikita (Japan), introduced a draft resolution (E/AC.57/1990/L.34) entitled "Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice".

29. At the same meeting, the Committee adopted the draft resolution (see chap. I, sect. D, Committee resolution 11/3).

30. Also at the 12th meeting, G. Polimeni (Italy), on behalf of R. S. Clark (New Zealand), D. Faulkner (United Kingdom of Great Britain and Northern Ireland), R. L. Gainer (United States of America), V. P. Ignatov (Union of Soviet Socialist Republics), F. A. Murad (Saudi Arabia), S. A. Rozès (France), A. A. A. Shiddo (Sudan) and M. Shikita (Japan), introduced a draft resolution (E/AC.57/1990/L.35) entitled "Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice".

31. At the same meeting, having heard a statement on the programme budget implications of the draft resolution made by the representative of the Office of Programme Planning, Budget and Finance, the Committee approved the draft resolution and decided to recommend that the Economic and Social Council transmit it to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see chap. I, sect. C, Committee decision 11/122).

Chapter VI

PROVISIONAL AGENDA FOR THE TWELFTH SESSION OF THE COMMITTEE

1. The Committee considered agenda item 7 at the 12th meeting, on 16 February 1990. It had before it a note by the Secretariat (E/AC.57/1990/L.2) containing the draft provisional agenda for the twelfth session of the Committee and indicating the documentation to be submitted under each item.

2. The Committee, on the proposal of the Chairman, decided to recommend to the Economic and Social Council the adoption of a draft decision in which it would take note of the report of the Committee on its eleventh session and approve the provisional agenda and documentation for its twelfth session, as completed in the light of resolutions adopted by the Committee (see chap. I, sect. B).

Chapter VII

ADOPTION OF THE REPORT OF THE COMMITTEE ON ITS ELEVENTH SESSION

1. At the 12th meeting, on 16 February 1990, the Committee adopted the report on its eleventh session (E/AC.57/1990/L.3 and Add.1-5).

2. The programme budget implications of the proposals made by the Committee at its eleventh session (see chap. I above) are contained in annex III to the present report.

Chapter VIII

ORGANIZATION OF THE SESSION

A. Opening and duration of the session

1. The Committee on Crime Prevention and Control held its eleventh session at Vienna from 5 to 16 February 1990. The session was opened by Minoru Shikita (Japan), the Chairman of the tenth session.

2. The Chairman of the eleventh session, Mr. Dusǎn Cotič (Yugoslavia), stated in his opening address that the tasks ahead of the Committee were twofold: programmatic and technical. The programmatic aspects of the work required action on the report of the sub-committee of the Committee on Crime Prevention and Control on the review of the programme of work of the United Nations in crime prevention and criminal justice, and the issues related to the preparations for the Eighth Congress. The technical work involved finalizing a large number of draft instruments so that they could be submitted to the Eighth Congress as recommendations of the Committee.

3. The Director-General of the United Nations Office at Vienna and Secretary-General of the Eighth Congress stressed that, notwithstanding the encouraging new international political climate, the world was still beset by violence, social conflicts and various forms of serious crime. She stated that the law, especially criminal law, was a basis for peace and social justice in the contemporary complex world. She emphasized the importance of the interrelationship of the crime prevention programme and drug control and social development programmes.

4. The Director-General was particularly concerned about the serious escalation of crime, exacerbated by the sophisticated managerial methods and technological means employed. She expressed the view that there was a manifest need for proscriptions, prescriptions and standards to deal with transboundary crime, such as terrorism and other forms of violence, economic and organized crime and environmental offences. At the same time, there was mounting concern about abuses of power and violations of fundamental human rights.

B. Attendance 1/

5. The following Committee members attended the session: Cheng Weiqui (China), Roger S. Clark (New Zealand), Dusan Cotic (Yugoslavia), Ramón de la Cruz Ochoa (Cuba), Trevor Percival Frank De Silva (Sri Lanka), David Faulkner (United Kingdom of Great Britain and Northern Ireland), Eugène Jules Henri Frencken (Belgium),

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1/ With the approval of the Committee, the following organizations attended the session: American Correctional Association, Asia Crime Prevention Foundation, Foundation for the Development of International Probation and Parole Practice, Foundation for Responsible Computing, Instituto Superior de Relaciones Internacionales (Cuba), Office of International Criminal Justice of the University of Illinois at Chicago and Scandinavian Research Council for Criminology.

Ronald L. Gainer (United States of America), Vasily P. Ignatov (Union of Soviet Socialist Republics), Nour El-Deen Khair (Jordan), Albert Llewelyn Olawole Metzger (Sierra Leone), Benjamin Miguel-Harb (Bolivia), Jorge Arturo Montero Castro (Costa Rica), Farouk A. Murad (Saudi Arabia), Abdul Karim Nasution (Indonesia), Salah Nour (Algeria), Bertin Pandi (Central African Republic), Gioacchino Polimeni (Italy), Victor Ramanitra (Madagascar), Simone Andrée Rozès (France), Miguel A. Sánchez Méndez (Colombia), Abdel Aziz Abdallad Shiddo (Sudan), Minoru Shikita (Japan) and Adolfo Luís Tamini (Argentina).

6. The following Committee members were unable to attend the session: Hedi Fessi (Tunisia), Jacek Kubiak (Poland) and Hama Mämoudou (Niger).

7. The session was also attended by observers from the following States: Angola, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Chad, Chile, China, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, Ethiopia, Finland, France, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guatemala, Hungary, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Kenya, Libyan Arab Jamahiriya, Mauritius, Morocco, Netherlands, New Zealand, Oman, Panama, Peru, Philippines, Poland, Qatar, Republic of Korea, Saudi Arabia, Sierra Leone, Spain, Sweden, Switzerland, Thailand, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela.

8. Representatives of the following units of the United Nations Secretariat attended the session: Office of Legal Affairs, Department of Public Information, Division of Narcotic Drugs of the Centre for Social Development and Humanitarian Affairs, Centre for Human Rights and the Economic and Social Commission for Western Asia.

9. The following United Nations bodies and affiliated institutes were represented: International Narcotics Control Board, United Nations Fund for Drug Abuse Control, Office of the United Nations High Commissioner for Refugees, United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, United Nations Interregional Crime and Justice Research Institute, United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations and United Nations African Regional Institute for the Prevention of Crime and the Treatment of Offenders and Australian Institute of Criminology.

10. The Sub-Commission on Prevention of Discrimination and Protection of Minorities was represented.

11. Two specialized agencies were represented by observers: United Nations Educational, Scientific and Cultural Organization and World Health Organization.

12. The following intergovernmental organizations were represented by observers: 2/ Arab Security Studies and Training Centre, Council of Arab Ministers of the Interior, Council of Europe, International Criminal Police Organization (INTERPOL) and League of Arab States (Council of Arab Ministers of Justice).

13. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

Category I: International Council of Women, Muslim World League, Soroptimist International and World Assembly of Youth.

Category II: Airport Associations Co-ordinating Council, All-India Women's Conference, Amnesty International, Arab Lawyers Union, Bahá'í International Community, Caritas Internationalis (International Confederation of Catholic Charities), Disabled Peoples' International, Four Directions Council, Friends World Committee for Consultation, Howard League for Penal Reform, International Association of Judges, International Catholic Child Bureau, International Centre of Sociological Penal and Penitentiary Research and Studies, International Commission of Jurists, International Committee of the Red Cross, International Council for Adult Education, International Federation of Human Rights, International Federation of Senior Police Officers, International Federation of University Women, International Institute of Humanitarian Law, International Society for Criminology, Italian Centre of Solidarity, Medical Women's International Association, Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs) (International Movement of Catholic Students), World Federation for Mental Health and World Society of Victimology.

Roster: Defence for Children International Movement, International Sociological Association, International Union of Socialist Youth and National Association of Victims Support Schemes.

C. Election of officers

14. At the 1st meeting, on 5 February, the Committee elected by acclamation the following officers:

Chairman: Dušan Cotič (Yugoslavia)

Vice-Chairmen: Farouk A. Murad (Saudi Arabia)
Albert L.O. Metzger (Sierra Leone)
Miquel A. Sánchez Méndez (Colombia)

Rapporteur: Roger S. Clark (New Zealand)

2/ Intergovernmental organizations designated by the Economic and Social Council under rule 79 of the rules of procedure for participation in the deliberations on questions within the scope of their activities.

15. At the 9th meeting, on 9 February, the Committee agreed to establish two informal working groups under the chairmanship of Albert L. O. Metzger (Sierra Leone) and Farouk A. Murad (Saudi Arabia).

D. Agenda

16. At the 1st meeting, on 5 February, the Committee adopted the agenda for its eleventh session as contained in document E/AC.57/1990/1 (see annex I below).

Annex I

AGENDA OF THE ELEVENTH SESSION

1. Election of officers.

2. Adoption of the agenda and organization of work.

3. Programming and other matters:

   (a) Progress report on United Nations activities in crime prevention and control for the biennium 1988-1989;

   (b) Programme of work for the biennium 1990-1991;

   (c) Nomination of members of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute.

4. Implementation of the conclusions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

5. Continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

6. Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice.

7. Provisional agenda for the twelfth session of the Committee.

8. Adoption of the report of the Committee on its eleventh session.

Annex II

LIST OF DOCUMENTS BEFORE THE COMMITTEE AT ITS ELEVENTH SESSION

Document Number	Agenda item	Title or description
E.AC.57/1990/1	2	Provisional agenda
E/AC.57/1990/2	3	United Nations activities in crime prevention and control: report of the Secretary-General
E/AC.57/1990/3	4	Declaration of basic principles of justice for victims of crime and abuse of power: report of the Secretary-General
E/AC.57/1990/4	4	United Nations network of Government-appointed national correspondents in the field of crime prevention and control: note by the Secretary-General
E/AC.57/1990/5 and Add.1-5	5	Continuation of preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and on all new draft instruments in crime prevention and criminal justice to be considered by the Congress, with special reference to the five substantive items on the agenda of the Congress: report of the Secretary-General
E/AC.57/1990/6	6	Results of the review undertaken by a sub-committee of the Committee on Crime Prevention and Control on the functioning and programme of work of the United Nations in crime prevention and criminal justice: note by the Secretary-General
E/AC.57/1990/7	3	Nomination of members of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute: note by the Secretary-General
E/AC.57/1990/CRP.1	4	Declaration of basic principles of justice for victims of crime and abuse of power

Document Number	Agenda item	Title or description
E/AC.57/1990/CRP.2	3 (b)	Extracts from the programme budget for the biennium 1990-1991 as approved by the General Assembly (A/44/6/Rev.1) and extracts from the report of the Committee for Programme and Co-ordination on its twenty-ninth session (A/44/16, paras. 147-159 and Add.1)
E/AC.57/1990/CRP.3	5	Draft model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property
E/AC.57/1990/CRP.4	5	Draft manual on crime prevention strategies
E/AC.57/1990/CRP.5	5	Draft manual on practical measures for anti-corruption efforts
E/AC.57/1990/L.1 and Rev.1		Agenda as adopted by the Committee
E/AC.57/1990/L.2		Provisional agenda for the twelfth session of the Committee
E/AC.57/1990/L.3 and Add.1-5	8	Draft report of the Committee on its eleventh session
E/AC.57/1990/L.4 and Rev.1 and 2		Draft resolution submitted by David Faulkner (United Kingdom of Great Britain and Northern Ireland), Eugène J. H. Frencken (Belgium), Vasily P. Ignatov (Union of Soviet Socialist Republics), Jorge A. Montero Castro (Costa Rica), Bertin Pandi (Central African Republic), Victor Ramanitra (Madagascar) and Simone Andrée Rozès (France), Miguel A. Sanchez Mendez (Colombia)
E/AC.57/1990/L.5 and Rev.1	4	Draft resolution submitted by Cheng Weiqui (China), Roger S. Clark (New Zealand), Dusan Cotic (Yugoslavia), Ramón de la Cruz Ochoa (Cuba), David Faulkner (United Kingdom of Great Britain and Northern Ireland), Vasily P. Ignatov (Union of Soviet Socialist Republics), Simone Andrée Rozès (France), Abdel A. A. Shiddo (Sudan)

Document Number	Agenda item	Title or description
E/AC.57/1990/L.6 and Rev.1	5	Draft resolution submitted by Ramón de la Cruz Ochoa (Cuba), Benjamin Miguel (Bolivia), Jorge A. Montero Castro (Costa Rica), Miguel A. Sánchez Méndez (Colombia) and Adolfo L. Tamini (Argentina)
E/AC.57/1990/L.7 and Rev.1	4	Draft resolution submitted by Minoru Shikita (Japan), Chairman of the Pre-sessional Working Group on Implementation of United Nations Standards and Norms in Crime Prevention and Criminal Justice
E/AC.57/1990/L.8 and Rev.1	3	Draft resolution submitted by Dusan Cotic (Yugoslavia), David Faulkner (United Kingdom of Great Britain and Northern Ireland), Ronald L. Gainer (United States of America), Vasily P. Ignatov (Union of Soviet Socialist Republics), Jorge A. Montero Castro (Costa Rica), Gioacchino Polimeni (Italy), Victor Ramanitra (Madagascar), Simone Andrée Rozès (France) Abdel A. A. Shiddo (Sudan), Minoru Shikita (Japan) and Adolfo L. Tamini (Argentina)
E/AC.57/1990/L.9 and Rev.1 and 2	4	Draft resolution submitted by Roger S. Clark (New Zealand), Dusan Cotic (Yugoslavia), Trevor P. Frank De Silva (Sri Lanka), David Faulkner (United Kingdom of Great Britain and Northern Ireland), Ronald L. Gainer (United States of America), Vasily P. Ignatov (Union of Soviet Socialist Republics), Alber L. O. Metzger (Sierra Leone), Jorge A. Montero Castro (Costa Rica), Simone Andrée Rozès (France), Abdel A. A. Shiddo (Sudan)
E/AC.57/1990/L.10	3	Draft resolution submitted by David Faulkner (United Kingdom of Great Britain and Northern Ireland), Ronald L. Gainer (United States of America), Jorge A. Montero Castro (Costa Rica), Farouk A. Murad (Saudi Arabia), Bertin Pandi (Central African Republic), Simone Andrée Rozès (France), Adolfo L. Tamini (Argentina)

Document Number	Agenda item	Title or description
E/AC.57/1990/L.11 and Rev.1	5	Draft resolution submitted by Salah Nour (Algeria), B. Pandi (Central African Republic) and V. Ramanitra (Madagascar)
E/AC.57/1990/L.12 and Rev.1	5	Draft resolution submitted by David Faulkner (United Kingdom of Great Britain and Northern Ireland), Ronald L. Gainer (United States of America), Farouk A. Murad (Saudi Arabia) and Minoru Shikita (Japan)
E/AC.57/1990/L.13	5	Draft resolution submitted by Eugène J. H. Frencken (Belgium), Abdul K. Nasution (Indonesia), and Simone Andrée Rozès (France)
E/AC.57/1990/L.14	6	Draft resolution submitted by Ronald L. Gainer (United States of America), Jorge A. Montero Castro (Costa Rica), Farouk A. Murad (Saudi Arabia) and Abdel A. A. Shiddo (Sudan)
E/AC.57/1990/L.15	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.16	4	Statement by the Secretary-General on programme budget implications of draft resolution E/AC.57/L.7/Rev.1
E/AC.57/1990/L.17	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.18	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.19	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.20	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.21	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.22	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.23	5	Draft resolution submitted by the Chairman of Working Group I

Document Number	Agenda item	Title or description
E/AC.57/1990/L.24	4	Statement by the Secretary-General on the programme budget implications of draft resolution E/AC.57/1990/L.5
E/AC.57/1990/L.25	6	Statement by the Secretary-General on the programme budget implications of draft resolution E/AC.57/1990/L.14
E/AC.57/1990/L.26	5	Draft resolution submitted by Dusan Cotic (Yugoslavia), Chairman of the Committee, on the basis of informal consultations
E/AC.57/1990/L.27	5	Statement by the Secretary-General on the programme budget implications of draft resolution E/AC.57/1990/L.12
E/AC.57/1990/L.28	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.29	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.30	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.31	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.32	6	Report of the Committee on Crime Prevention and Control on the need for the creation of an effective international crime and justice programme
E/AC.57/1990/L.33	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.34	6	Draft resolution submitted by Roger S. Clark (New Zealand), David Faulkner (United Kingdom of Great Britain and Northern Ireland), Ronald L. Gainer (United States of America), Vasily P. Ignatov (Union of Soviet Socialist Republics), Farouk A. Murad (Saudi Arabia), Gioacchino Polimeni (Italy), Simone Andrée Rozès (France), Abdel A. A. Shiddo (Sudan) and Minoru Shikita (Japan)

Document Number	Agenda item	Title or description
E/AC.57/1990/L.35	6	Draft resolution submitted by Roger S. Clark (New Zealand), David Faulkner (United Kingdom of Great Britain and Northern Ireland), Ronald L. Gainer (United States of America), Vasily P. Ignatov (Union of Soviet Socialist Republics), Farouk A. Murad (Saudi Arabia), Gioacchino Polimeni (Italy), Simone Andrée Rozès (France), Abdel A. A. Shiddo (Sudan) and Minoru Shikita (Japan).
E/AC.57/1990/L.36	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.37	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.38	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.39	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/L.40	5	Draft resolution submitted by the Chairman of Working Group I
E/AC.57/1990/NGO/1	5	Statement submitted by the International Centre of Sociology, Penal and Penitentiary Research Studies, a non-governmental organization in consultative status with the Economic and Social Council, Category II
E/AC.57/1990/NGO/2	5	Statement submitted by the International Association of Penal Law, the International Society for Criminology, the International Society of Social Defense, the International Institute of Higher Studies in Criminal Sciences, non-governmental organizations in consultative status with the Economic and Social Council, Category II
E/AC.57/1990/NGO/3	4	Statement submitted by the World Federation for Mental Health, a non-governmental organization in consultative status with the Economic and Social Council, Category II

Document Number	Agenda item	Title or description
E/AC.57/1990/WG.1		Provisional agenda of the Pre-sessional Working Group on Implementation of United Nations Standards and Norms in Crime Prevention and Criminal Justice
E/AC.57/1990/WG.2		Report of the Pre-sessional Working Group
A/CONF.144/IPM.1, 2, 3, 4, 5	5	Reports of the interregional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/CONF.144/RPM.1, 2 and Corr.1, 3 and Corr.1, 4 and Corr.1, 5 and Corr.1	5	Reports of the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Annex III

PROGRAMME BUDGET IMPLICATIONS OF THE PROPOSALS OF THE COMMITTEE

1. During the course of its eleventh session, the Committee on Crime Prevention and Control approved three draft resolutions for adoption by the Economic and Social Council and adopted three decisions and one resolution that have programme budget implications. In compliance with regulation 13.1 of the Financial Regulations and Rules of the United Nations, programme budget implications statements were presented to the Committee.

2. The programme budget implications are summarized below; the full statements follow the summary.

	Subject	1991	1992	1993
Draft resolutions				
III	Prison education	(Subject to the availability of extrabudgetary resources)		
IV	Implementing of United Nations standards and norms in crime prevention and criminal justice	- - -	Conference servicing costs: $60,300 Other costs: $4,200	- -
VII	Education, training and and public awareness in the field of crime prevention	(Requirements to be reflected in the proposed programme budget for the biennium 1992-1993)		
Committee decisions				
11/103	Computerization of criminal justice	(Subject to the availability of extrabudgetary resources for technical co-operation)		
11/105	Management of criminal justice and development of sentencing policies	(Subject to the availability of extrabudgetary resources for technical co-operation)		
11/122	Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice	(Subject to the guidance of the Eighth Congress and to decision by the General Assembly)		
Committee resolution				
11/3	Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice	(Subject to the guidance of the Eighth Congress and to decision by the General Assembly)		

I. PROGRAMME BUDGET IMPLICATIONS OF DRAFT RESOLUTION III ON PRISON EDUCATION

A. Requests contained in draft resolution III

3. By operative paragraph 5 of draft resolution III, the Economic and Social Council would request the Secretary-General, subject to the availability of extrabudgetary funds:

(a) To develop a set of guidelines and a manual on prison education that would provide the basis necessary for further development of prison education and would facilitate the exchange of expertise and experience on this aspect of penitentiary practice among Member States;

(b) To convene an international expert meeting on prison education, with a view to formulating action-oriented strategies in this area, with the co-operation of the regional and interregional institutes for crime prevention and criminal justice and the specialized agencies and other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council.

B. Relationship of the requests to the approved programme of work

4. The activities that would be called for under this draft resolution fall under chapter 21, programme 1 (Global social develpment issues), subprogramme 11 (Guidelines and standards in crime prevention and criminal justice), the objectives and strategy for which are outlined in paragraphs 21.51 and 21.54 of the medium-term plan for the period 1984-1989, as extended through 1991. [a]

5. The activities are relevant to section 8 (Activities on global social development issues) of the programme budget for the biennium 1990-1991, [b] programme element 9.2 (Crime prevention and criminal justice in the context of development), output (iii) under operational activities.

C. Activities by which the requests would be implemented

6. Should the requests contained in the draft resolution be adopted, extrabudgetary resources would be sought and, if available, a set of guidelines and a manual on prison education would be undertaken together with the convening of an international expert meeting on prison education.

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[a] *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 6* (A/37/6) and *ibid., Forty-third Session, Supplement No. 16* (A/43/16).

[b] Ibid., *Forty-fourth Session, Supplement No. 6* (A/44/6/Rev.1), vol. I.

II. PROGRAMME BUDGET IMPLICATIONS OF DRAFT RESOLUTION IV ON THE IMPLEMENTATION OF UNITED NATIONS STANDARDS AND NORMS IN CRIME PREVENTION AND CRIMINAL JUSTICE

7. By operative paragraph 7 of draft resolution IV, the Economic and Social Council would authorize the Committee on Crime Prevention and Control to continue its practice of convening a pre-sessional working group for two days before each session.

8. The Committee would convene its next pre-sessional working group for two days immediately before the twelfth session of the Committee, which is scheduled for 1992 in Vienna. The working group would be entitled to interpretation in the six official languages of the United Nations. The actual interpretation requirements would depend on the composition of the five-person working group. No pre-session or in-session documentation would be necessary, but one post-session document of approximately 25 pages would be required. Also, an additional payment of daily subsistence allowance would be required for each of the five members of the pre-sessional working group for a total of four days.

9. The full cost estimate for the additional two-day meeting is as follows:

	Vienna, 1992 ($US)
Section 4:	
Additional subsistence allowance for five members of the working group	4 200
Section 29:	
Meeting servicing (four meetings: A, C, E, F, R, S)	27 100
Post-session documentation (25 pages: A, C, E, F, R, S)	33 200
Total	64 500

10. Should the draft resolution be adopted, provision would be made in the proposed programme budget for the biennium 1992-1993 for the additional subsistence allowance and conference-servicing costs required for a two-day meeting of the pre-sessional working group.

III. PROGRAMME BUDGET IMPLICATIONS OF DRAFT RESOLUTION VII ON EDUCATION, TRAINING AND PUBLIC AWARENESS IN THE FIELD OF CRIME PREVENTION

A. Requests contained in draft resolution VII

11. By operative paragraph 1 of draft resolution VII, the Economic and Social Council would recommend the establishment of a comprehensive programme of work so that the United Nations could deal in a practical and operational way, in the context of its policy, standard-setting and clearing-house functions and central co-ordination role, with the contemporary problems of the international community in the field of crime prevention and criminal justice; the programme should include:

(a) Design of programmes for curricular development and preparation of training material and manuals;

(b) Promotion of collaborative academic work and publications;

(c) Provision of technical advisory services to Member States and organizations at their request;

(d) Development of data bases on different aspects of education, training and public awareness;

(e) Production of audio-visual material and other training aids;

(f) Promotion of international co-operation in respect of training and educational programmes, including the provision of scholarships, fellowships and study tours;

(g) Close collaboration with research centres and academic institutions, as well as with the private sector.

12. By operative paragraph 2 of the same resolution, the Council would request the Secretary-General to take the necessary steps to put these recommendations into effect.

B. Relationship of the request to the programme of work

13. The activities that would be called for under the draft resolution fall under chapter 21, programme 1 (Global social development issues) of the medium-term plan for the period 1984-1989, as extended through 1991. a/

14. The activities requested are relevant to section 8 (Activities on global social development issues) of the programme budget for the biennium 1990-1991. b/

15. The medium-term plan proposal for the period 1992-1997 will include, under a programme on crime prevention and criminal justice, a subprogramme (Crime prevention and criminal justice standards and norms) with, inter alia, the following objectives:

(a) Assisting Governments in the formulation and implementation of standards and norms in crime prevention and criminal justice;

(b) Promoting dissemination and public awareness of them.

16. The comprehensive programme of work called for in the draft resolution would be developed within the framework of this proposed subprogramme of the medium-term plan for the period 1992-1997 and the related activities would be reflected in the proposed programme budgets for 1992-1993 and subsequent biennia.

IV. PROGRAMME BUDGET IMPLICATIONS OF COMMITTEE DECISION 11/103 ON THE COMPUTERIZATION OF CRIMINAL JUSTICE

A. Requests in the draft resolution contained in Committee decision 11/103

17. In its decision 11/103, the Committee on Crime Prevention and Control recommended that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders a draft resolution entitled "Computerization of criminal justice".

18. By operative paragraph 2 of the draft resolution, the Eighth Congress would request the Secretary-General, in co-operation with the network of regional and interregional institutes, to strengthen the Global Crime and Criminal Justice Information Network by:

(a) Developing and distributing appropriate publications, reports and newsletters;

(b) Organizing regional and interregional meetings, seminars and workshops on a continuing basis;

(c) Maintaining an up-to-date roster of individuals and organizations to form the basis of an international technical co-operation infrastructure;

(d) Enhancing communication between Member States by utilizing an electronic information network.

19. By operative paragraph 3, the Eighth Congress would request the Secretary-General, in co-operation with the network of regional and interregional institutes, to establish a technical co-operation programme for the systemization and computerization of criminal justice in order to offer training, assess needs and formulate and execute specific projects, and to report on the results achieved to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

20. By operative paragraph 4, the Eighth Congress would further request the Secretary-General to establish an international group of experts, which would be supported by the Department of Technical Co-operation for Development, would report regularly to the Secretary-General, and would have interregoinal representation and responsibility for:

(a) Reviewing and assessing national experiences in the computerization of criminal justice;

(b) Overseeing the establishment of the technical co-operation programme;

(c) Monitoring the activities of the technical co-operation programme;

(d) Informing Member States of the potential availability of funds and services from various donors in the governmental, intergovernmental and private sectors;

(e) Informing such donors of the needs of Member States for assistance;

(f) Consulting with relevant experts in the private sector in the field of criminal justice.

B. Relationship of the requests to the approved programme of work

21. The activities that would be called for under the draft resolution fall under chapter 21, programme 1 (Global social development issues), subprogramme 9 (Criminal prevention policy in the context of development), the objectives and strategy for which are outlined in paragraphs 21.44 and 21.46 of the medium-term plan for the period 1984-1989, as extended through 1991. a/

22. The activities are relevant to section 8 (Activities on global social development issues) of the programme budget for the biennium 1990-1991 b/ but have not been programmed in the 1990-1991 programme budget under section 8.

C. Modifications required in the approved programme of work for the biennium 1990-1991

23. The Secretary-General would establish a technical co-operation programme, in co-operation with the institutes concerned, for the systematization and computerization of criminal justice in order to offer training, assess needs, formulate and execute specific projects and strengthen the Global Crime and Criminal Justice Network by undertaking the tasks enumerated in operative paragraph 2 of the draft resolution. This programme would be undertaken subject to the availability of technical co-operation resources and extrabudgetary funding, which will be sought in accordance with operative paragraph 1 of the draft resolution.

24. Within this programme, it would also be the intention of the Secretary-General to establish the group of experts referred to in paragraph 20 above. However, the Secretary-General is of the view that the responsibilities outlined in paragraph 20 are those of the Secretariat. The group of experts therefore would provide advice to the Secretariat but the Secretariat would be responsible for the tasks enumerated in operative paragraph 4 (a) to (e) of the draft resolution.

25. The draft resolution, if adopted, would therefore be implemented on the understanding outlined above.

V. PROGRAMME BUDGET IMPLICATIONS OF COMMITTEE DECISION 11/105 ON THE MANAGEMENT OF CRIMINAL JUSTICE AND THE DEVELOPMENT OF SENTENCING POLICIES

26. In its decision 11/105, the Committee on Crime Prevention and Control recommended that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders a draft resolution entitled "Management of criminal justice and development of sentencing policies".

27. By operative paragraph 13 of the draft resolution, the Eighth Congress would request the Secretary-General:

(a) To develop a data base of innovative programmes for the computerization of criminal justice systems that might be applicable to systems in Member States;

(b) To facilitate the exchange of information, experience and personnel between jurisdictions that are in the process of computerizing some aspects of their criminal justice systems and those that are at a more advanced stage of that process;

(c) To disseminate information on relevant experience in that area;

(d) To provide adequate resources for the completion of those tasks.

28. In this connection, the attention of the Council is drawn to Committee decision 11/103 as dealt with in section IV above. It is indicated that the Secretary-General would strengthen the Global Crime and Criminal Justice Information network and establish a technical co-operation programme for the systemization and computerization of criminal justice in order to offer training, assess needs, and formulate and execute specific projects. Therefore, the activities that would be called for under this draft resolution could be undertaken once the envisaged computerization of criminal justice was instituted.

29. The draft resolution, if adopted by the Eighth Congress, would be implemented on that understanding and subject to the availability of technical co-operation resources and extrabudgetary funding.

VI. PROGRAMME BUDGET IMPLICATONS OF COMMITTEE DECISION 11/122 ON THE REVIEW OF THE FUNCTIONING AND PROGRAMME OF WORK OF THE UNITED NATIONS IN CRIME PREVENTION AND CRIMINAL JUSTICE

30. In its decision 11/122, the Committee on Crime Prevention and Control recommended that the Economic and Social Council transmit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders a draft resolution entitled "Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice", containing a draft resolution recommended for adoption by the General Assembly.

31. By operative paragraph 1 of the draft resolution recommended for adoption, the General Assembly would request the Secretary-General, in consultation with the Chairman of the Committee on Crime Prevention and Control, to arrange for the establishment of an expert working group, which, subject to extrabudgetary funds, would further elaborate the proposed international crime and justice programme referred to in the report of the Committee entitled "The need for the creation of an effective international crime and justice programme" (E/1990/31/Add.1), as well as the mechanisms required for implementing the proposed programme.

32. By operative paragraph 2 of the draft resolution, the General Assembly would invite Member States to convene a summit or ministerial meeting to consider the proposed programme and any convention or other international instrument required to develop its content and structure and to consider whether it should be placed within the framework of a major unit of the Secretariat or within a new United Nations agency.

33. By operative paragraph 4 of the draft resolution, the General Assembly would request the Secretary-General to take immediate action, pending the convening of a summit or ministerial meeting, to consider the conversion of the Crime Prevention and Criminal Justice Branch into a new, major unit of the United Nations Secretariat with an appropriate programme, and to report thereon to the summit or ministerial meeting and to the Committee on Crime Prevention and Control at its twelfth session.

34. The establishment of an expert working group to elaborate the proposed crime and justice programme would involve expenditures which cannot be precisely determined at present. It is expected that should the Congress recommend to the General Assembly the adoption of the draft resolution, the Congress will at the same time provide additional guidance on such issues as the composition of the expert working group, the duration of its mandate and the frequency of its meetings.

35. With the additional guidance provided by the Eighth Congress, the Secretary-General will be in a position to inform the General Assembly of the programme budget implications relating to the establishment of an expert working group as envisaged in the draft resolution.

VII. PROGRAMME BUDGET IMPLICATIONS OF COMMITTEE RESOLUTION 11/3 ON THE REVIEW OF THE FUNCTIONING AND PROGRAMME OF WORK OF THE UNITED NATIONS IN CRIME PREVENTION AND CRIMINAL JUSTICE

36. By operative paragraph 1 of its resolution 11/3, the Committee on Crime Prevention and Control unanimously approved the report of the Committee entitled "The need for the creation of an effective international crime and justice programme" (E/1990/31/Add.1).

37. By operative paragraph 3 of the same resolution, the Committee recommended that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders should consider the report under item 3 (topic I) of its provisional agenda.

38. By operative paragraph 4 of the same resolution, the Committee recommended that the Eighth Congress, after considering that report, should endorse its recommendations and propose the necessary action for their implementation, considering in particular:

(a) The formation of an expert working group to further elaborate the proposed programme and the mechanisms required for its implementation;

(b) The convening of a summit or ministerial meeting to consider the proposed programme and any international instruments required to develop its content and structure;

(c) The organizational structure required for the proposed programme, including the conversion of the Crime Prevention and Criminal Justice Branch into a major unit of the Secretariat or the establishment of a new United Nations agency.

39. The formation of an expert working group and the convening of a summit or ministerial meeting would involve expenditures which cannot be precisely determined at present. It is expected that, when the Eighth United Nations Congress considers

the recommendations contained in the report of the Committee (E/1990/31/Add.1) and should the Eighth Congress decide to recommend to the General Assembly the formation of an expert working group or the convening of a summit or ministerial meeting, the Congress would at the same time provide additional guidance on such matters as the composition of the group, its terms of reference, the duration of its meetings or of a summit or ministerial meeting, and the timing and locations of those meetings.

40. With the additional guidance provided by the Eighth Congress, the Secretary-General will be in a position to inform the General Assembly of the programme budget implications relating to the formation of an expert working group and the convening of a summit or ministerial meeting as envisaged in the resolution.
